COMMITTEE ON FOREIGN RELATIONS
COMMITTEE ON FOREIGN AFFAIRS

# Legislation on Foreign Relations Through 2008

JOINT COMMITTEE PRINT

JULY 2010

**VOLUME II–B**
**OF VOLUMES II–A AND II–B**

CURRENT LEGISLATION AND
RELATED EXECUTIVE ORDERS

U.S. SENATE

U.S. HOUSE OF REPRESENTATIVES

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## FOREWORD

This volume of legislation and related material is part of a five volume set of laws and related material frequently referred to by the Committees on Foreign Relations of the Senate and Foreign Affairs of the House of Representatives, amended to date and annotated to show pertinent history or cross references.

Volumes I (A and B), II (A and B), III and IV contain legislation and related material and are republished with amendments and additions on a regular basis. Volume V, which contains treaties and related material, was last updated through 2005.

We wish to express our appreciation to Matthew C. Weed of the Foreign Affairs, Defense, and Trade Division of the Congressional Research Service of the Library of Congress and Suzanne Kayne of the U.S. Government Printing Office who prepared volume II–B of this year's compilation.

JOHN F. KERRY,
*Chairman, Committee on Foreign Relations.*

HOWARD L. BERMAN,
*Chairman, Committee on Foreign Affairs.*

July 23, 2010.

## EXPLANATORY NOTE

The body of statutory law set out in this volume was in force, as amended, at the end of 2008.

This volume sets out "session law" as originally enacted by Congress and published by the Archivist of the United States as "slip law" and later in the series *United States Statutes at Large* (as subsequently amended, if applicable). Amendments are incorporated into the text and distinguished by a footnote. Session law is organized in this series by subject matter in a manner designed to meet the needs of the Congress.

Although laws enacted by Congress in the area of foreign relations are also codified by the Law Revision Counsel of the House of Representatives, typically in title 22 United States Code, those codifications are not positive law and are not, in most instances, the basis of further amendment by the Congress. Cross references to the United States Code are included as footnotes for the convenience of the reader.

All Executive orders and State Department delegations of authority are codified and in force as of December 30, 2008.

Corrections may be sent to Matthew C. Weed at Library of Congress, Congressional Research Service, Washington D.C., 20540–7460, or by e-mail at mweed@crs.loc.gov.

## ABBREVIATIONS

| | |
|---|---|
| Bevans | Treaties and Other International Agreements of the United States of America, 1776–1949, compiled under the direction of Charles I. Bevans. |
| CFR | Code of Federal Regulations. |
| EAS | Executive Agreement Series. |
| F.R | Federal Register. |
| LNTS | League of Nations Treaty Series. |
| I Malloy, II Malloy | Treaties, Conventions, International Acts, Protocols, and Agreements Between the United States of America and Other Powers, 1776–1909, compiled under the direction of the United States Senate by William M. Malloy. |
| Stat | United States Statutes at Large. |
| TIAS | Treaties and Other International Acts Series. |
| TS | Treaty Series. |
| UNTS | United Nations Treaty Series. |
| U.S.C | United States Code. |
| UST | United States Treaties and Other International Agreements. |

# CONTENTS


| | Page |
|---|---|
| **FOREWORD** | III |
| **EXPLANATORY NOTE** | V |
| **ABBREVIATIONS** | VI |
| **F. ARMS CONTROL AND DISARMAMENT** | 1 |
| 1. Arms Control and Disarmament Act, as amended (Public Law 87–297) | 5 |
| 2. Arms Control and Disarmament Authorization—Prior Years | 28 |
| 3. Cooperative Threat Reduction | 47 |
| 4. Nonproliferation of Weapons of Mass Destruction | 178 |
| 5. Arms Control and Nonproliferation Provisions in National Defense Authorization Acts | 530 |
| **G. WAR POWERS, COLLECTIVE SECURITY, AND RELATED MATERIAL** | 725 |
| 1. War Powers | 727 |
| 2. American Servicemembers' Protection Act of 2002 (Public Law 107–206) | 783 |
| 3. Cuban Resolution (Public Law 87–733) | 795 |
| 4. Middle East Resolutions and Related Material | 796 |
| 5. Tonkin Gulf Resolution (Public Law 88–408) (repealed) | 806 |
| 6. National Commitment (Senate Resolution 85, 91st Congress) | 808 |
| 7. North Atlantic Alliance | 809 |
| 8. Taiwan Relations | 837 |
| 9. Panama Canal | 855 |
| **H. UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS** | 925 |
| 1. United Nations Participation Act of 1945, as amended (Public Law 79–264) | 927 |
| 2. Department of State Authorization Act, Fiscal Year 2003 (Public Law 107–228 (partial text) | 945 |
| 3. United Nations Reform Act of 1999 (Public Law 106–113) (partial text) | 949 |
| 4. United Nations Headquarters Agreement Act (Public Law 80–357) (partial text) | 961 |
| 5. U.S. Participation in Certain International Organizations (Public Law 81–806) (partial text) | 965 |
| 6. Appropriations Limitation on Contributions to International Organizations (Public Law 92–544) (partial text) | 966 |
| 7. U.N. Provisions in Foreign Relations Authorization Acts | 968 |
| 8. United Nations Peacekeeping Forces in the Middle East (Public Law 94–37) | 969 |
| 9. Response to United Nations Resolution on Zionism | 970 |
| 10. United Nations Environment Program Participation Act of 1973 (Public Law 93–188) | 971 |
| 11. Support of Peaceful Settlement of Disputes (Executive Order 10206) | 972 |
| 12. Privileges and Immunities | 973 |
| 13. Relating to International Agreements on Children | 1017 |
| **APPENDICES** | 1049 |
| **INDEX** | 1097 |

# F. ARMS CONTROL AND DISARMAMENT

CONTENTS


Page

1. Arms Control and Disarmament Act, as amended (Public Law 87–297) ..... 5
2. Arms Control and Disarmament Authorization—Prior Years ..... 28
   a. Arms Control and Nonproliferation Authorization—Fiscal Year 2003 (Public Law 107–228) (partial text) ..... 28
   b. Arms Control and Nonproliferation Act of 1999 (Public Law 106–113) (partial text) ..... 30
   c. Arms Control and Disarmament Agency Authorization, Fiscal Year 1999 (Public Law 105–277) (partial text) ..... 36
   d. Arms Control and Nonproliferation Act of 1994 (Public Law 103–236) (partial text) ..... 37
   e. Arms Control and Disarmament Act Authorization for Fiscal Years 1990 and 1991 (Public Law 101–216) (partial text) ..... 39
   f. Arms Control and Disarmament Act Authorization for Fiscal Years 1988 and 1989 (Public Law 100–213) (partial text) ..... 41
   g. Arms Control and Disarmament Act Authorization for Fiscal Years 1986 and 1987 (Public Law 99–93) (partial text) ..... 43
3. Cooperative Threat Reduction ..... 47
   a. Cooperative Threat Reduction, Fiscal Year 2009 (Public Law 110–417) (partial text) ..... 47
   b. Cooperative Threat Reduction Appropriations, 2009 (Public Law 110–329) (partial text) ..... 50
   c. Cooperative Threat Reduction, Fiscal Year 2008 (Public Law 110–181) (partial text) ..... 51
   d. Cooperative Threat Reduction Authorization in Response to 9/11 Commission Recommendations, Fiscal Year 2008 (Public Law 110–53) (partial text) ..... 58
   e. Cooperative Threat Reduction, Fiscal Year 2007 (Public Law 109–364) (partial text) ..... 61
   f. Cooperative Threat Reduction, Fiscal Year 2006 (Public Law 109–163) (partial text) ..... 65
   g. Cooperative Threat Reduction, Fiscal Year 2005 (Public Law 108–375) (partial text) ..... 69
   h. Cooperative Threat Reduction, Fiscal Year 2004 (Public Law 108–136) (partial text) ..... 72
   i. Cooperative Threat Reduction, Fiscal Year 2003 (Public Law 107–314) (partial text) ..... 81
   j. Cooperative Threat Reduction, Fiscal Year 2002 (Public Law 107–107) (partial text) ..... 89
   k. Cooperative Threat Reduction, Fiscal Year 2001 (Public Law 106–398) (partial text) ..... 94
   l. Cooperative Threat Reduction, Fiscal Year 2000 (Public Law 106–65) (partial text) ..... 104
   m. Cooperative Threat Reduction, Fiscal Year 1999 (Public Law 105–261) (partial text) ..... 110
   n. Cooperative Threat Reduction, Fiscal Year 1998 (Public Law 105–85) (partial text) ..... 118
   o. Cooperative Threat Reduction, Fiscal Year 1997 (Public Law 104–201) (partial text) ..... 124
   p. Cooperative Threat Reduction, Fiscal Year 1996 (Public Law 104–106) (partial text) ..... 129

q. Cooperative Threat Reduction, Fiscal Year 1995 (Public Law 103–337) (partial text) ..... 135
r. Cooperative Threat Reduction Act of 1993 (Public Law 103–160) (partial text) ..... 142
s. Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (FREEDOM Support Act) (Public Law 102–511) (partial text) ..... 149
t. Former Soviet Union Demilitarization Act of 1992 (Public Law 102–484) (partial text) ..... 161
u. Conventional Forces in Europe Treaty Implementation Act of 1991 (Public Law 102–228) (partial text) ..... 166
v. Soviet Nuclear Threat Reduction—Appropriations, Fiscal Year 1992 (Public Law 102–229) (partial text) ..... 173
4. Nonproliferation of Weapons of Mass Destruction ..... 178
a. Implementing Recommendations of the 9/11 Commission Concerning Nonproliferation and Terrorism (Public Law 110–53) (partial text) . 178
b. United States Additional Protocol Implementation Act (Public Law 109–401) (partial text) ..... 193
c. Iran Nonproliferation Amendments Act of 2005 (Public Law 109–112) (partial text) ..... 206
d. Nuclear Security Initiative Act of 2003 (Public Law 108–136) (partial text) ..... 209
e. Nonproliferation and Export Control Assistance, 2003 (Public Law 107–228) (partial text) ..... 214
f. Russian Federation Debt Reduction for Nonproliferation Act of 2002 (Public Law 107–228) (partial text) ..... 221
g. Nonproliferation Assistance Coordination Act of 2002 (Public Law 107–228) (partial text) ..... 228
h. Iran Nuclear Proliferation Prevention Act of 2002 (Public Law 107–228) (partial text) ..... 232
i. Miscellaneous Nonproliferation Provisions in Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228) (partial text) ..... 234
j. Iran, North Korea, and Syria Nonproliferation Act (Public Law 106–178) ..... 238
k. National Security and Corporate Fairness Under the Biological Weapons Convention Act (Public Law 106–113) (partial text) ..... 250
l. Proliferation Prevention Enhancement Act of 1999 (Public Law 106–113) (partial text) ..... 257
m. National Missile Defense Act of 1999 (Public Law 106–38) ..... 261
n. Chemical Weapons Convention Implementation Act of 1998 (Public Law 105–277) (partial text) ..... 262
o. Defense Against Weapons of Mass Destruction Act of 1998 (Public Law 105–261) (partial text) ..... 296
p. Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (Public Law 104–293) (partial text) ..... 300
q. Defense Against Weapons of Mass Destruction Act of 1996 (Public Law 104–201) (partial text) ..... 308
r. Nuclear Proliferation Prevention Act of 1994 (Public Law 103–236) (partial text) ..... 324
s. Weapons of Mass Destruction Control Act of 1992 (Public Law 102–484) (partial text) ..... 337
t. Iran-Iraq Arms Non-Proliferation Act of 1992 (Public Law 102–484) (partial text) ..... 344
u. Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (Public Law 102–182) (partial text) ..... 349
v. Executive Orders Concerning Nonproliferation of Weapons of Mass Destruction ..... 359
(1) Renunciation of Certain Uses in War of Chemical Herbicides and Riot Control Agents (Executive Order 11850) ..... 359
(2) Administration of Proliferation Sanctions, Middle East Arms Control, and Related Congressional Reporting Responsibilities (Executive Order 12851) ..... 361
(3) Proliferation of Weapons of Mass Destruction (Executive Order 12938) ..... 365

(4) Implementation of the Chemical Weapons Convention and the Chemical Weapons Convention Implementation Act (Executive Order 13128) ..... 371
(5) Blocking Property of the Government of the Russian Federation Relating to the Disposition of Highly Enriched Uranium Extracted From Nuclear Weapons (Executive Order 13159) .. 373
(6) Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters (Executive Order 13382) . 376
(7) Implementation of the Protocol Additional to the Agreement Between the United States and the International Atomic Energy Agency for the Application of Safeguards in the United States of America (Executive Order 13458) ..... 379
w. Nuclear Non-Proliferation Act of 1978 and Related Materials ..... 380
(1) Nuclear Non-Proliferation Act of 1978 (Public Law 95–242) (partial text) ..... 380
(2) Functions Relating to Nuclear Non-Proliferation (Executive Order 12058) ..... 398
(3) Export of Nuclear Material ..... 400
(A) U.S. Exports of Low-Enriched Uranium Fuel (Public Law 96–280) ..... 400
(B) Export of Special Nuclear Material and Components to India (Executive Order 12218) ..... 401
(C) Export of Special Nuclear Material to India (Executive Order 12055) ..... 402
(4) Department of Energy Act of 1978—Civilian Applications (Public Law 95–238) (partial text) ..... 403
x. Atomic Energy Act and Related Materials ..... 405
(1) Atomic Energy Act of 1954, as amended (Public Law 83–703) (partial text) ..... 405
(2) United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act (Public Law 110–369) (partial text) ..... 477
(3) United States and India Nuclear Cooperation (Public Law 109–401) (partial text) ..... 482
(4) North Korea Threat Reduction Act of 1999 (Public Law 106–113) (partial text) ..... 500
(5) USEC Privatization Act (Public Law 104–134) (partial text) .. 502
(6) Establishment of the Enrichment Oversight Committee (Executive Order 13085) ..... 510
(7) EURATOM Cooperation Act of 1958, as amended (Public Law 85–846) ..... 514
(8) Agreement for Nuclear Cooperation Between the United States and China (Public Law 99–183) ..... 519
(9) International Atomic Energy Agency Participation Act of 1957, as amended (Public Law 85–177) (partial text) ..... 521
y. Executive Orders Concerning International Atomic Energy Cooperation ..... 526
(1) Authorization for the Communication of Restricted Data by the Department of State (Executive Order 11057) ..... 526
(2) Authorization for the Communication of Restricted Data by the Central Intelligence Agency (Executive Order 10899) ..... 527
(3) Providing for the Carrying Out of Certain Provisions of the Atomic Energy Act of 1954, as amended, Relating to International Cooperation (Executive Order 10841) ..... 528
5. Arms Control and Nonproliferation Provisions in National Defense Authorization Acts ..... 530
a. Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417) (partial text) ..... 530
b. National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181) (partial text) ..... 538
c. John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364) (partial text) ..... 544
d. National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163) (partial text) ..... 550
e. Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375) (partial text) ..... 553

f. National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136) (partial text) ..... 562
g. Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) (partial text) ..... 568
h. National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107) (partial text) ..... 574
i. Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) (partial text) ..... 580
j. National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65) (partial text) ..... 587
k. Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261) (partial text) ..... 599
l. National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85) (partial text) ..... 612
m. National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201) (partial text) ..... 625
n. National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106) (partial text) ..... 637
o. National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337) (partial text) ..... 644
p. National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160) (partial text) ..... 651
q. National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484) (partial text) ..... 666
r. National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190) (partial text) ..... 674
s. National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510) (partial text) ..... 677
t. National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189) (partial text) ..... 682
u. National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456) (partial text) ..... 694
v. National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180) (partial text) ..... 701
w. Department of Defense Authorization Act, 1987 (Public Law 99–661) (partial text) ..... 707
x. Department of Defense Authorization Act, 1986 (Public Law 99–145) (partial text) ..... 711
y. Department of Defense Authorization Act, 1985 (Public Law 98–525) (partial text) ..... 716

# 1. Arms Control and Disarmament Act, as amended

CONTENTS


| | Page |
|---|---|
| Title I—Short Title, Purpose, and Definitions | 6 |
| Section 101—Short Title | 6 |
| Section 102—Purpose | 6 |
| Section 103—Definitions | 8 |
| Title II—Special Representatives and Visiting Scholars | 8 |
| Section 201—Presidential Special Representatives | 9 |
| Section 202—Program for Visiting Scholars | 9 |
| Title III—Functions | 10 |
| Section 301—Research | 10 |
| Section 302—Patents | 12 |
| Section 303—Policy Formulation | 12 |
| Section 304—Negotiation Management | 13 |
| Section 305—Arms Control Information | 14 |
| Section 306—Verification of Compliance | 14 |
| Section 307—Negotiating Records | 16 |
| Section 308—Comprehensive Compilation of Arms Control and Disarmament Studies | 16 |
| Title IV—General Provisions | 17 |
| Section 401—General Authority | 17 |
| Section 402—Dual Compensation Laws | 20 |
| Section 403—Annual Report to Congress | 21 |
| Section 404—Public Annual Report on World Military Expenditures and Arms Transfers | 24 |
| Title V—On-Site Inspection Activities | 24 |
| Section 501—Findings | 24 |
| Section 502—Policy Coordination Concerning Implementation of On-Site Inspection Provisions | 25 |
| Section 503—Review of Certain Reprogramming Notifications | 26 |
| Section 504—Definitions | 26 |

## 1. Arms Control and Disarmament Act, as amended

**Public Law 87–297 [H.R. 9118], 75 Stat. 631, approved September 26, 1961; as amended by Public Law 88–186 [S. 777], 77 Stat. 341, approved November 26, 1963; Public Law 88–426 [H.R. 11049], 78 Stat. 400, approved August 14, 1964; Public Law 88–448 [H.R. 7381], 78 Stat. 484, approved August 19, 1964; Public Law 89–27 [H.R. 2998], 79 Stat. 118, approved May 27, 1965; Public Law 90–314 [H.R. 14940], 82 Stat. 129, approved May 23, 1968; Public Law 91–246 [S. 3544], 84 Stat. 270, approved May 12, 1970; Public Law 92–352 [H.R. 14734], 86 Stat. 489, approved July 13, 1972; Public Law 93–332 [H.R. 12799], 88 Stat. 289, approved July 8, 1974; Public Law 94–141 [S. 1517], 89 Stat. 756, approved November 29, 1975; Public Law 95–108 [H.R. 6179], 91 Stat. 871, approved August 17, 1977; Public Law 95–338 [H.R. 11832], 92 Stat. 458, approved August 8, 1978; Public Law 96–66 [H.R. 2774], 93 Stat. 414, approved September 21, 1979; Public Law 96–465 [H.R. 6790], 94 Stat. 2071 at 2159, approved October 17, 1980; Public Law 97–339 [H.R. 3467], 96 Stat. 1635, approved October 15, 1982; Public Law 98–202 [H.R. 2906], 97 Stat. 1381, approved December 2, 1983; Public Law 99–93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985; Public Law 99–550 [H.R. 3641], 100 Stat. 3067, approved October 27, 1986; Public Law 100–213 [H.R. 2689], 101 Stat. 1444, approved December 24, 1987; Public Law 101–216 [H.R. 1495], 103 Stat. 1853, approved December 11, 1989; Public Law 102–228 [H.R. 3807], 105 Stat. 1691, approved December 12, 1991; Public Law 103–199 [H.R. 3000], 107 Stat. 2317, approved December 17, 1993; Public Law 103–236 [H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 105–277 [H.R. 4328], 112 Stat. 2681, approved October 21, 1998; Public Law 106–113 [H.R. 3194], 113 Stat. 1501, approved November 29, 1999; and Public Law 107–228 [H.R. 1646], 116 Stat. 1350, approved September 30, 2002**

AN ACT To establish a United States Arms Control and Disarmament Agency.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### TITLE I—SHORT TITLE, PURPOSE, AND DEFINITIONS

#### SHORT TITLE

SECTION 101.[1] This Act may be cited as the "Arms Control and Disarmament Act".

#### PURPOSE

SEC. 102.[2] An ultimate goal of the United States is a world which is free from the scourge of war and the dangers and burdens of armaments; in which the use of force has been subordinated to the rule of law; and in which international adjustments to a changing

[1] 22 U.S.C. 2551 note. Redesignated from sec. 1 by sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772).

[2] 22 U.S.C. 2551. Redesignated from sec. 2 by sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772).

world are achieved peacefully. It is the purpose of this Act to provide impetus toward this goal by addressing[3] the problem of reduction and control of armaments looking toward ultimate world disarmament.[4]

The Secretary of State[5] must have the capacity to provide the essential scientific, economic, political, military, psychological, and technological information upon which realistic arms control, nonproliferation,[6] and disarmament policy must be based. The Secretary shall have the authority, under the direction of the President,[7] to carry out the following primary functions:

(1)[8] The preparation for and management of United States participation in international negotiations and implementation fora in the arms control, nonproliferation,[9] and disarmament field.

(2)[8,10] The conduct, support, and coordination of research for arms control, nonproliferation, and disarmament policy formulation.

---

[3] Sec. 1223(1)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–768) struck out "creating a new agency of peace to deal with" and inserted in lieu thereof "addressing".

[4] Sec. 1223(1)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–768) struck out an undesignated paragraph following this paragraph, which read as follows:

"Arms control, nonproliferation, and disarmament policy, being an important aspect of foreign policy, must be consistent with national security policy as a whole. The formulation and implementation of United States arms control, nonproliferation, and disarmament policy in a manner which will promote the national security can best be insured by a central organization charged by statute with primary responsibility for this field. This organization must have such a position within the Government that it can provide the President, the Secretary of State, other officials of the executive branch, and the Congress with recommendations concerning United States arms control, nonproliferation, and disarmament policy, and can assess the effect of these recommendations upon our foreign policies, our national security policies, and our economy.".

[5] Sec. 1223(1)(C)(i) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–768) struck out "This organization" and inserted in lieu thereof "The Secretary of State".

[6] Sec. 719(a)(2) of Public Law 103–236 (108 Stat. 501) inserted ", nonproliferation" after "arms control".

[7] Sec. 144 of Public Law 94–141 struck out "It must be able" and inserted "It shall have the authority, under the direction of the President and the Secretary of State,". Sec. 1223(1)(C)(ii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–768) subsequently struck out "It shall have" and inserted in lieu thereof "The Secretary shall have", and struck out "and the Secretary of State" following "under the direction of the President,".

[8] Sec. 703 of Public Law 103–236 (108 Stat. 491) struck out subsecs. (a) through (d) and inserted in lieu thereof paras. (1) through (5). Paras. (a) through (d) had read as follows:

"(a) The conduct, support, and coordination of research for arms control and disarmament policy formulation;

"(b) The preparation for and management of United States participation in international negotiations in the arms control and disarmament field;

"(c) The dissemination and coordination of public information concerning arms control and disarmament; and

"(d) The preparation for, operation of, or as appropriate, direction of United States participation in such control systems as may become part of United States arms control and disarmament activities.".

[9] Sec. 1223(1)(C)(iv) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–768) inserted ", nonproliferation," after "arms control".

[10] Sec. 1223(1)(C)(v) and (vi) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–768, 769) struck out para. (2) and redesignated paras. (3) through (5) as paras. (2) through (4). Former para. (2) read as follows:

"(2) When directed by the President, the preparation for, and management of, United States participation in international negotiations and implementation fora in the nonproliferation field.".

(3)[8,10] The preparation for, operation of, or[11] direction of, United States participation in such control systems as may become part of United States arms control, nonproliferation, and disarmament activities.

(4)[8,10] The dissemination and coordination of public information concerning arms control, nonproliferation, and disarmament.

DEFINITIONS

SEC. 103.[12] As used in this Act—

(a) The terms "arms control" and "disarmament" mean the identification, verification, inspection, limitation, control, reduction, or elimination, of armed forces and armaments of all kinds under international agreement including the necessary steps taken under such an agreement to establish an effective system of international control, or to create and strengthen international organizations for the maintenance of peace.

(b) The term "Government agency" means any executive department, commission, agency, independent establishment, corporation wholly or partly owned by the United States which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of Government.

## TITLE II—SPECIAL REPRESENTATIVES AND VISITING SCHOLARS[13]

SEC. 21.[14] [Repealed—1998]
SEC. 22.[15] [Repealed—1998]
SEC. 23.[16] [Repealed—1998]
SEC. 24.[17] [Repealed—1998]
SEC. 25.[18] [Repealed—1998]
SEC. 26.[19] [Repealed—1998]

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[11] Sec. 1223(1)(C)(vii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–769) struck out ", as appropriate," following "operation of, or".

[12] 22 U.S.C. 2552. Sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) redesignated this section from sec. 3. Sec. 1223(2) of that Act (112 Stat. 2681–769) struck out subsec. (c) to this section, which had provided the following:

"(c) The term 'Agency' means the United States Arms Control and Disarmament Agency.".

[13] Sec. 1223(3) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–769) struck out "ORGANIZATION" and inserted in lieu thereof "SPECIAL REPRESENTATIVES AND VISITING SCHOLARS".

[14] Formerly at 22 U.S.C. 2561. Sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–768) repealed this section, which pertained to the establishment of the Arms Control and Disarmament Agency.

[15] Formerly at 22 U.S.C. 2562. Sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–768) repealed this section, which pertained to the appointment and duties of the Director.

[16] Formerly at 22 U.S.C. 2563. Sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–768) repealed this section, which pertained to the appointment and duties of the Deputy Director.

[17] Formerly at 22 U.S.C. 2564. Sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–768) repealed this section, which pertained to the appointment and duties of four Assistant Directors.

[18] Formerly at 22 U.S.C. 2565. Sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–768) repealed this section, which pertained to bureaus, offices, and divisions within ACDA.

[19] Formerly at 22 U.S.C. 2566. Sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–768) repealed this

PRESIDENTIAL SPECIAL REPRESENTATIVES

SEC. 201.[20] The President may appoint, by and with the advice and consent of the Senate, Special Representatives of the President for arms control, nonproliferation, and disarmament matters. Each Presidential Special Representative shall hold the rank of ambassador.[21] Presidential Special Representatives appointed under this section shall perform their duties and exercise their powers under the direction of the President and the Secretary of State.[22] The Department of State[23] shall be the Government agency responsible for providing administrative support, including funding, staff, and office space, to all Presidential Special Representatives.

PROGRAM FOR VISITING SCHOLARS

SEC. 202.[24] A program for visiting scholars in the fields of arms control, nonproliferation, and disarmament[25] shall be established by the Secretary of State[26] in order to obtain the services of scholars from the faculties of recognized institutes of higher learning. The purpose of the program will be to give specialists in the physical sciences and other disciplines relevant to the Department of State's[27] activities an opportunity for active participation in the arms control, nonproliferation,[28] and disarmament activities of the Department of State[27] and to gain for the Department of State[27] the perspective and expertise such persons can offer. Each fellow in the program shall be appointed for a term of one year, except that such term may be extended for a 1-year period. Fellows shall

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section, which, as amended, pertained to establishment of a Scientific and Policy Advisory Committee.

[20] 22 U.S.C. 2567. Sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) redesignated this section from sec. 27. Sec. 2(a) of Public Law 95–108 originally added this section, and sec. 103(a) of Public Law 101–216 amended it. Sec. 708(a) of Public Law 103–236 (108 Stat. 493) amended and restated the section. Sec. 708(b) of that Act amended 5 U.S.C. 5315, which established the compensation of Special Representatives at level IV of the Executive Schedule, to remove the limitation of two on the number of such representatives. The rate of compensation for level IV is set at $143,000 per annum by Schedule 5 of Executive Order 13393 (70 F.R. 76655; December 22, 2005).

[21] Sec. 1223(4)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–769) struck out a third sentence at this point that had read as follows:

"One such Representative may serve in the Agency as Chief Science Advisor.".

[22] Sec. 1223(4)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–769) struck out ", acting through the Director" at this point.

[23] Sec. 1223(4(C) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–769) struck out "Agency" and inserted in lieu thereof "Department of State".

[24] 22 U.S.C. 2568. Sec. 3 of Public Law 98–202 added this section. Sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) redesignated this section from sec. 28.

[25] Sec. 719(b)(1) of Public Law 103–236 (108 Stat. 501) struck out "field of arms control and disarmament", and inserted in lieu thereof "fields of arms control, nonproliferation, and disarmament".

[26] Sec. 1223(5)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–769) struck out "Director" and inserted in lieu thereof "Secretary of State".

[27] Sec. 1223(5)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–769) struck out "Agency" and inserted in lieu thereof "Department of State"; and struck out "Agency's" and inserted in lieu thereof "Department of State's" in this sentence.

[28] Sec. 719(b)(2) of Public Law 103–236 (108 Stat. 501) inserted ", nonproliferation," after "arms control".

be chosen by a board consisting of the Secretary of State,[26] who shall be the chairperson, and all former Directors of the Agency.

## TITLE III—FUNCTIONS

### RESEARCH

SEC. 301.[29] The Secretary of State[30] is authorized and directed to exercise his powers in this title in[31] such manner as to ensure[32] the acquisition of a fund of theoretical and practical knowledge concerning disarmament and nonproliferation.[33] To this end, the Secretary of State[30] is authorized and directed, under the direction of the President, (1) to ensure[32] the conduct of research, development, and other studies in the fields of arms control, nonproliferation, and disarmament;[34] (2) to make arrangements (including contracts, agreements, and grants) for the conduct of research, development, and other studies in the fields of arms control, nonproliferation, and disarmament[34] by[35] private or public institutions or persons; and (3) to coordinate the research, development, and other studies conducted in the fields of arms control, nonproliferation, and disarmament[34] by or for other Government agencies.[36] In carrying out his responsibilities under this Act, the Secretary of State[30] shall, to the maximum extent feasible, make full use of available facilities, Government and private. The authority of the Secretary under this Act, with respect to research, development, and other studies concerning arms control, nonproliferation, and disarmament shall be limited to participation in the following:[37]

(a) the detection, identification, inspection, monitoring, limitation, reduction, control, and elimination of armed forces and armaments, including thermonuclear, nuclear, missile, conventional, bacteriological, chemical, and radiological weapons;

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[29] 22 U.S.C. 2571. Sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) redesignated this section from sec. 31.

[30] Sec. 1223(6)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–769) struck out "Director" and inserted in lieu thereof "Secretary of State" throughout this section.

[31] Sec. 1223(6)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–769) inserted "this title in" after "powers in".

[32] Sec. 1223(6)(C) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–769) struck out "insure" and inserted in lieu thereof "ensure".

[33] Sec. 719(c)(2) of Public Law 103–236 (108 Stat. 501) inserted "and nonproliferation" after "disarmament".

[34] Sec. 719(c)(1) of Public Law 103–236 (108 Stat. 501) struck out "field of arms control and disarmament" and inserted in lieu thereof "fields of arms control, nonproliferation, and disarmament".

[35] Sec. 5 of Public Law 88–186 inserted the words "United States" between the words "by" and "private". Sec. 3 of Public Law 95–108 subsequently struck out the words "United States".

[36] Sec. 1223(6)(D) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–769) struck out "in accordance with procedures established under section 35 of this Act" at this point.

[37] Sec. 1223(6)(E) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–769) struck out "The authority of the Secretary of State with respect to research, development, and other studies shall be limited to participation in the following insofar as they relate to arms control, nonproliferation, and disarmament:" and inserted in lieu thereof "The authority of the Secretary under this Act, with respect to research, development, and other studies concerning arms control, nonproliferation, and disarmament shall be limited to participation in the following:".

(b) the techniques and systems of detecting, identifying, inspecting, and monitoring of tests of nuclear, thermonuclear, and other weapons;

(c) the analysis of national budgets, levels of industrial production, and economic indicators to determine the amounts spent by various countries for armaments and of all aspects of antisatellite activities;[38]

(d) the control, reduction, and elimination of armed forces and armaments in space, in areas on and beneath the earth's surface, and in underwater regions;

(e) the structure and operation of international control and other organizations useful for arms control, nonproliferation,[39] and disarmament;

(f) the training of scientists, technicians, and other personnel for manning the control systems which may be created by international arms control, nonproliferation,[39] and disarmament agreements;

(g) the reduction and elimination of the danger of war resulting from accident, miscalculation, or possible surprise attack, including (but not limited to) improvements in the methods of communications between nations;

(h) the economic and political consequences of arms control, nonproliferation,[39] and disarmament, including the problems of readjustment arising in industry and the reallocation of national resources;

(i) the arms control, nonproliferation,[39] and disarmament implications of foreign and national security policies of the United States with a view to a better understanding of the significance of such policies for the achievement of arms control, nonproliferation,[39] and disarmament;

(j) the national security and foreign policy implications of arms control, nonproliferation,[39] and disarmament proposals with a view to a better understanding of the effect of such proposals upon national security and foreign policy;

(k) methods for the maintenance of peace and security during different stages of arms control, nonproliferation,[39] and disarmament;

(l) the scientific, economic, political, legal, social, psychological, military, and technological factors related to the prevention of war with a view to a better understanding of how the basic structure of a lasting peace may be established; and[40]

(m) such related problems as the Secretary of State[30] may determine to be in need of research, development, or study in order to carry out the provisions of this Act.

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[38] Sec. 4 of Public Law 97–339 inserted the words "and of all aspects of antisatellite activities".

[39] Sec. 719(c)(3) of Public Law 103–236 (108 Stat. 501) inserted ", nonproliferation," after "arms control".

[40] Sec. 1223(6)(F) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–769) inserted "and".

PATENTS

SEC. 302.[41] All research within the United States contracted for, sponsored, cosponsored, or authorized under authority of this Act, shall be provided for in such manner that all information as to uses, products, processes, patents, and other developments resulting from such research developed by Government expenditure will (with such exceptions and limitations, if any, as the Secretary of State[42] may find to be necessary in the public interest) be available to the general public. This section[43] shall not be so construed as to deprive the owner of any background patent relating thereto of such rights as he may have thereunder.

POLICY FORMULATION

SEC. 303.[44] (a) FORMULATION.—The Secretary of State[45] shall prepare for the President,[46] and the heads of such other Government agencies as the President may determine, recommendations and advice concerning United States arms control, nonproliferation, and disarmament policy.

(b) PROHIBITION.—No action shall be taken pursuant to this or any other Act that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner[44], except pursuant to the treaty-making power of the President set forth in Article II, Section 2, Clause 2 of the Constitution or unless authorized by the enactment of further affirmative legislation by the Congress of the United States.

(c)[47] STATUTORY CONSTRUCTION.—Nothing contained in this chapter shall be construed to authorize any policy or action by any Government agency which would interfere with, restrict, or prohibit the acquisition, possession, or use of firearms by an individual for the lawful purpose of personal defense, sport, recreation, education, or training.

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[41] 22 U.S.C. 2572. Sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) redesignated this section from sec. 32.

[42] Sec. 1223(7)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–769) struck out "Director" and inserted in lieu thereof "Secretary of State".

[43] Sec. 1223(7)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–769) struck out "subsection" and inserted in lieu thereof "section".

[44] 22 U.S.C. 2573. Sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) redesignated this section from sec. 33. Sec. 709 of Public Law 103–236 (108 Stat. 494) restated this section and amended it by adding the words, "in a militarily significant manner" in para. (b), and by deleting a final sentence which sec. 3 of Public Law 88–186 had added that read, "Nothing contained in this Act shall be construed to authorize any policy or action by any Government agency which would interfere with, restrict, or prohibit the acquisition, possession, or use of firearms by an individual for the lawful purpose of personal defense, sport, recreation, education, or training.".

[45] Sec. 1223(8)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–769) struck out "Director" and inserted in lieu thereof "Secretary of State".

[46] Sec. 1223(8)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–769) struck out "the Secretary of State," at this point.

[47] Sec. 2602 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681–839) added subsec. (c).

NEGOTIATION MANAGEMENT

SEC. 304.[48] (a) RESPONSIBILITIES.—The Secretary of State,[49] under the direction of the President,[50] shall have primary responsibility for the preparation, conduct, and management of United States participation in all international negotiations and implementation fora in the fields of arms control, nonproliferation,[51] and disarmament.[52] In furtherance of these responsibilities, Special Representatives of the President appointed pursuant to section 201,[53] shall, as directed by the President, serve as[54] United States Government representatives to international organizations, conferences, and activities relating to the field of nonproliferation,[55] such as the preparations for and conduct of the review relating to the Treaty on the Non-Proliferation of Nuclear Weapons.

(b)[56] AUTHORITY.—The Secretary of State[57] is authorized—

(1)[58] to formulate plans and make preparations for the establishment, operation, and funding of inspections and control systems which may become part of the United States arms control, nonproliferation, and disarmament activities; and

(2)[58] as authorized by law, to put into effect, direct, or otherwise assume United States responsibility for such systems.

SEC. 35.[59] [Repealed—1998]

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[48] 22 U.S.C. 2574. Redesignated from sec. 34 by sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772). Sec. 710 of Public Law 103–236 (108 Stat. 494) restated this section and its heading, and amended it by adding para. (a) and the provisions relating to nonproliferation.

[49] Sec. 1223(9)(A)(i) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–769) struck out "Director" and inserted in lieu thereof "Secretary of State".

[50] Sec. 1223(9)(A)(ii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–769) struck out "and the Secretary of State".

[51] Sec. 1223(9)(A)(iii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–769) inserted ", nonproliferation," after "in the fields of arms control".

[52] Sec. 1223(9)(A)(iv) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–769) struck out "and shall have primary responsibility, whenever directed by the President, for the preparation, conduct, and management of United States participation in international negotiations and implementation fora in the field of nonproliferation" after "disarmament".

[53] Sec. 1223(9)(A)(v) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–770) struck out "section 27" and inserted in lieu thereof "section 201".

[54] Sec. 1223(9)(A)(vi) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–770) struck out "the" following "serve as".

[55] For additional statutory requirements relating to persons representing the United States "in such organs, commissions or other bodies as may be created by the United Nations with respect to nuclear energy or disarmament (control and limitation of armament)", see sec. 2(b) of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287(b)), page 926 of this volume.

[56] Sec. 1223(9)(B) and (C) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–770) struck out subsec. (b) and redesignated subsec. (c) as subsec. (b). Former subsec. (b) required the ACDA Director to provide relevant information to USIA.

[57] Sec. 1223(9)(D)(i) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–770) struck out "Director" and inserted in lieu thereof "Secretary of State".

[58] Sec. 1223(9)(D) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–770) struck out para. (1) and redesignated paras. (2) and (3) as paras. (1) and (2). Former para. (1) pertained to international negotiations and the ACDA Director's authority.

[59] Formerly at 22 U.S.C. 2575. Sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–768) repealed this section, which provided for coordination among Executive agencies on all significant aspects of arms control, nonproliferation, disarmament and related matters.

ARMS CONTROL INFORMATION[60]

SEC. 305.[61] In order to assist the Secretary of State[62] in the performance of his duties with respect to arms control, nonproliferation,[63] and disarmament policy and negotiations, any Government agency preparing any legislative or budgetary proposal for—

(1) any program of research, development, testing, engineering, construction, deployment, or modernization with respect to nuclear armaments, nuclear implements of war, military facilities or military vehicles designed or intended primarily for the delivery of nuclear weapons,

(2) any program of research, development, testing, engineering, construction, deployment, or modernization with respect to armaments, ammunition, implements of war, or military facilities, having—

(A) an estimated total program cost in excess of $250,000,000, or

(B) an estimated annual program cost in excess of $50,000,000, or

(3) any other program involving technology with potential military application or weapons systems[64] which such Government agency or the Secretary of State[62] believes may have a significant impact on arms control, nonproliferation,[63] and disarmament policy or negotiations,

shall, on a continuing basis, provide the Secretary of State[62] with full and timely access to detailed information[65] with respect to the nature, scope, and purpose of such proposal.

VERIFICATION OF COMPLIANCE

SEC. 306.[66] (a) IN GENERAL.—In order to ensure that arms control, nonproliferation, and disarmament agreements can be

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[60] Sec. 719(e)(1) of Public Law 103–236 (108 Stat. 501) restated the section heading, which formerly read "ARMS CONTROL IMPACT INFORMATION AND ANALYSIS".

[61] 22 U.S.C. 2576. Sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) redesignated this section from sec. 36. Sec. 146 of Public Law 94–141 added this section, and sec. 1(1) and sec. 1(2) of Public Law 95–338 amended the section. Sec. 146 of Public Law 94–141 added this section, and sec. 1(1) and sec. 1(2) of Public Law 95–338 amended the section. Sec. 704(1) of Public Law 103–236 (108 Stat. 492) repealed subsecs. (b) and (c) of this section, which related to arms control impact information and analysis. Sec. 719(e)(2) of that Act struck out subsection designation "(a)".

[62] Sec. 1223(10)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–770) struck out "Director" and inserted in lieu thereof "Secretary of State".

[63] Sec. 719(e)(3) of Public Law 103–236 (108 Stat. 501) inserted ", nonproliferation," after "arms control".

[64] Sec. 1(l) of Public Law 95–338 struck out the words "weapons systems or technology" and inserted in lieu thereof "technology with potential military application or weapons systems". Senate Report No. 95–843, May 15, 1978, states at page 3 that this change was made "so that there would be no question that technology with potential military application, rather than, simply, weapons technology, could be reviewed and reported upon under the legislation.".

[65] Sec. 1223(10)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–770) struck out ", in accordance with the procedures established pursuant to section 35 of this Act," at this point.

[66] 22 U.S.C. 2577. Sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) redesignated this section from sec. 37. Sec. 4 of Public Law 95–108 originally added this section. Sec. 712 of Public Law 103–236 (108 Stat. 495) restated the section and its heading, and amended it by adding subsec. (d) and the provisions relating to nonproliferation. Sec. 1223(11)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–770) struck out subsec. (d), which pertained to international participation and negotiations.

verified,[67] the Secretary of State[68] shall report to Congress, on a timely basis, or upon request by an appropriate committee of the Congress—

(1) in the case of any arms control, nonproliferation, or disarmament agreement that has been concluded by the United States, the determination of the Secretary of State[68] as to the degree to which the components of such agreement can be verified;

(2) in the case of any arms control, nonproliferation, or disarmament agreement that has entered into force, any significant degradation or alteration in the capacity of the United States to verify compliance of the components of such agreement;

(3) the amount and percentage of research funds expended by the Department of State[68] for the purpose of analyzing issues relating to arms control, nonproliferation, and disarmament verification; and

(4) the number of professional personnel assigned to arms control verification on a full-time basis by each Government agency.

(b)[69] ASSESSMENTS UPON REQUEST.—Upon the request of the chairman or ranking minority member of the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives, in case of an arms control, nonproliferation, or disarmament proposal presented to a foreign country, the Secretary of State shall submit a report to the Committee on the degree to which elements of the proposal are capable of being verified.

(c)[69] STANDARD FOR VERIFICATION OF COMPLIANCE.—In making determinations under paragraphs (1) and (2) of subsection (a), the Secretary of State[68] shall assume that all measures of concealment not expressly prohibited could be employed and that standard practices could be altered so as to impede verification.

(d)[69] RULE OF CONSTRUCTION.—Except as otherwise provided for by law, nothing in this section may be construed as requiring the disclosure of sensitive information relating to intelligence sources or methods or persons employed in the verification of compliance with arms control, nonproliferation, and disarmament agreements.

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[67] Sec. 1115(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), struck out "adequately" preceding "verified".

[68] Sec. 1223(11)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–770) struck out "Director" or "Agency" and inserted in lieu thereof "Secretary of State" or "Department of State", respectively, throughout the section.

[69] Sec. 1115(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), redesignated subsecs. (b) and (c) as subsecs. (c) and (d), and added a new subsec. (b). The amendment also stated a redesignation of subsec. (d) as subsec. (e); the amendments executed by the Foreign Affairs Agencies Consolidation Act of 1998 struck out this subsection.

NEGOTIATING RECORDS

SEC. 307.[70] (a) PREPARATION OF RECORDS.—The Secretary of State[71] shall establish and maintain records for each arms control, nonproliferation, and disarmament agreement to which the United States is a party and which was under negotiation or in force on or after January 1, 1990, which shall include classified and unclassified materials such as instructions and guidance, position papers, reporting cables and memoranda of conversation, working papers, draft texts of the agreement, diplomatic notes, notes verbal, and other internal and external correspondence.

(b) NEGOTIATING AND IMPLEMENTATION RECORDS.—In particular, the Secretary of State[71] shall establish and maintain a negotiating and implementation record for each such agreement, which shall be comprehensive and detailed, and shall document all communications between the parties with respect to such agreement. Such records shall be maintained both in hard copy and magnetic media.

COMPREHENSIVE COMPILATION OF ARMS CONTROL AND DISARMAMENT STUDIES

SEC. 308.[72] Pursuant to his responsibilities under section 31 of this Act, and in order to enhance Congressional and public understanding of arms control, nonproliferation,[73] and disarmament issues, the Director shall provide to the Congress not later than June 30 of each year a report setting forth—

(1) a comprehensive list of studies relating to arms control, nonproliferation,[73] and disarmament issues concluded during the previous calendar year by government agencies or for government agencies by private or public institutions or persons; and

(2) a brief description of each such study.

This report shall be unclassified, with a classified addendum if necessary.

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[70] 22 U.S.C. 2578. Sec. 713(a) of Public Law 103–236 (108 Stat. 496) added this section. Sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) redesignated this section from sec. 38.

Sec. 713(b) of that Act required the following:

"(b) REPORT REQUIRED.—Not later than January 31, 1995, the Director of the United States Arms Control and Disarmament Agency shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a detailed report describing the actions he has undertaken to implement section 38 of the Arms Control and Disarmament Act.".

Previously, sec. 38 had required that the President submit an annual report to Congress on the activities of the Standing Consultative Commission established under Article XIII of the Treaty on the Limitation of Anti-Ballistic Missile Systems. That sec. 38, originally added by sec. 3(b) of Public Law 100–213, and amended by sec. 401(a) of Public Law 103–199, was repealed by sec. 704(2) of Public Law 103–236 (108 Stat. 492).

Sec. 1223(12)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–770) struck out subsec. (c), relating to international negotiations.

[71] Sec. 1223(12)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–770) struck out "Director" and inserted in lieu thereof "Secretary of State" throughout the section.

[72] 22 U.S.C. 2579. Sec. 4 of Public Law 100–213 added this section. Sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) redesignated this section from sec. 39.

[73] Sec. 719(f) of Public Law 103–236 (108 Stat. 502) inserted ", nonproliferation," after "arms control".

## TITLE IV—GENERAL PROVISIONS

### GENERAL AUTHORITY

SEC. 401.[74] In addition to any authorities otherwise available, the Secretary of State in the performance of functions under this Act[75] is authorized to—

(a) utilize or employ the services, personnel, equipment, or facilities of any other Government agency, with the consent of the agency concerned, to perform such functions on behalf of the Department of State[76] as may appear desirable.[77] Any Government agency is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Secretary of State,[76] without reimbursement, supplies and equipment other than administrative supplies or equipment. Transfer or receipt of excess property shall be in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended;[78]

(b)[79, 80] appoint and fix the compensation of employees possessing specialized technical expertise without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, if the Secretary of State[76] ensures that—

(1) any employee who is appointed under this subsection[81] is not paid at a rate—

(A) in excess of the rate payable for positions of equivalent difficulty or responsibility, or

(B) exceeding the maximum rate payable for grade 15 of the General Schedule; and

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[74] 22 U.S.C. 2581. Sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) redesignated this section from sec. 41.

[75] Sec. 1223(13)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–770) struck out "In the performance of his functions, the Director" and inserted in lieu thereof "In addition to any authorities otherwise available, the Secretary of State in the performance of functions under this Act".

[76] Sec. 1223(13)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–770) struck out references through the section to the Director or the Agency and replaced such references with an appropriate reference to the Secretary of State or the Department of State.

[77] Sec. 1223(13)(C) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–770) struck out "It is the intent of this section that the Director rely upon the Department of State for general administrative services in the United States and abroad to the extent agreed upon between the Secretary of State and the Director.".

[78] See e.g., 40 U.S.C. 483(a) and 484.

[79] Sec. 5(a) of Public Law 95–108 amended and restated subsec. (b) which formerly read as follows: "(b) appoint officers and employees, including attorneys, for the Agency in accordance with the civil service laws and fix their compensation in accordance with the Classification Act of 1949, as amended;".

[80] Sec. 1223(13)(D)(i) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–770) struck out "appoint officers and employees, including attorneys, for the Agency in accordance with the provisions of title 5, United States Code, governing appointment in the competitive service, and fix their compensation in accordance with chapter 51 and with subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that the Director may, to the extent the Director determines necessary to the discharge of his responsibilities,".

[81] Sec. 1223(13)(D)(ii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–770) struck out "exception" and inserted in lieu thereof "subsection".

(2) the number of employees appointed under this subsection[82] shall not exceed 10 percent of the Department of State's[76] full-time-equivalent positions allocated to carry out the purposes of this Act.[83]

(c) enter into agreements with other Government agencies, including the military departments through the Secretary of Defense, under which officers or employees of such agencies may be detailed to the Department of State[76] for the performance of service pursuant to this Act without prejudice to the status or advancement of such officers or employees within their own agencies;

(d) procure services of experts and consultants or organizations thereof, including stenographic reporting services, as authorized by section 3109 of title 5 of the United States Code,[84] and to pay in connection therewith travel expenses of individuals, including transportation and per diem in lieu of subsistence while away from their homes or regular places of business, as authorized by section 5703 of such title:[85] *Provided,* That no such individual shall be employed for more than 130 days[86] in any fiscal year unless the President certifies that employment of such individual in excess of such number of days is necessary in the national interest:[87] *And provided further,* That such contracts may be renewed annually;

(e) employ individuals of outstanding ability without compensation in accordance with the provisions of section 710(b) of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2160), and regulations issued thereunder;

(f)[88] establish a scientific and policy advisory board to advise with and make recommendations to the Secretary of State on

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[82] Sec. 1223(13)(D)(iii)(I) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–771) struck out "exception" and inserted in lieu thereof "subsection".

[83] Sec. 1223(13)(D)(iii)(II) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–771) struck out "ceiling" and inserted in lieu thereof "positions allocated to carry out the purposes of this Act".

[84] Para. (a)(1) of Public Law 93–332 struck out the words "at rates not exceeding $100 per diem for individuals", and also struck out "section 15 of the Act of August 2, 1946 (5 U.S.C. 55a)" and inserted in lieu thereof "section 3109 of title 5 of the United States Code".

[85] Para. (a)(2) of Public Law 93–332 struck out "section 5 of said Act, as amended (5 U.S.C. 73b–2)" and inserted in lieu thereof "section 5703 of such title".

[86] Para. (a)(3) of Public Law 93–332 struck out "one hundred days" and inserted in lieu thereof "130 days".

[87] In a memorandum of August 18, 1990, for the Director of the United States Arms Control and Disarmament Agency, the President delegated to such Director the authority set forth in this subsection to certify that the employment of persons in excess of the number of days set forth in this subsection is necessary in the national interest (55 F.R. 37693; September 13, 1990). Sec. 1221 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–768) provides, "Except as otherwise provided in section 1223 or 1225, any reference in any statute, reorganization plan, Executive order, regulation, agreement, determination, or other official document or proceeding to—(1) the Director of the United States Arms Control and Disarmament Agency, the Director of the Arms Control and Disarmament Agency, or any other officer or employee of the United States Arms Control and Disarmament Agency or the Arms Control and Disarmament Agency shall be deemed to refer to the Secretary of State * * * ". Subsequently, the Secretary of State delegated "[t]he functions that were vested in the United States Arms Control and Disarmament Agency before the effective date described in section 1201 of the Foreign Affairs Reform and Restructuring Act of 1998 (as contained in Pub. L. 105–277), including any functions conferred on the Director or any officer or employee of that agency, and that are now conferred on the Secretary pursuant to the provisions of the Act (including amendments made by that Act)" to the Under Secretary for Arms Control and International Security (Delegation of Authority 293 of June 2, 2006; 71 F.R. 38202; July 5, 2006).

[88] Sec. 1223(13)(G) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–771) amended and restated subsec. (f), which previously read, as amended, as follows:

"(f) establish advisory boards to advise with and make recommendations to the Director on United States arms control and disarmament policy and activities. The members of such boards

United States arms control, nonproliferation, and disarmament policy and activities. A majority of the board shall be composed of individuals who have a demonstrated knowledge and technical expertise with respect to arms control, nonproliferation, and disarmament matters and who have distinguished themselves in any of the fields of physics, chemistry, mathematics, biology, or engineering, including weapons engineering. The members of the board may receive the compensation and reimbursement for expenses specified for consultants by subsection (d) of this section;

(g)[89] administer oaths and take sworn statements in the course of an investigation made pursuant to the Secretary of State's[76] responsibilities under this Act;

(h)[89] delegate, as appropriate, to the Under Secretary for Arms Control and International Security[90] or other officers of the Department of State, any authority conferred upon the Secretary of State[76] by the provisions of this Act; and

(i)[89] make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary or desirable to the exercise of any authority conferred upon the Secretary of State[76] by the provisions of this Act.

SEC. 42.[91] [Repealed—1998]

SEC. 43.[92] [Repealed—1998]

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may receive the compensation and reimbursement for expenses specified for consultants by section 41(d) of this Act;".

[89] Sec. 401(b)(1) of the Conventional Forces in Europe Treaty Implementation Act of 1991 (Public Law 102–228; 105 Stat. 1698) redesignated subsecs. (h) and (i) as subsecs. (i) and (j). Sec. 401(b)(2) of that Act added a new subsec. (h).

Subsequently, sec. 1223(13)(E) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–771) struck out the original subsec. (g), which sec. 5(b) of Public Law 95–108 (91 Stat. 873) had originally added. Subsec. (g) had pertained to payment for work performed, and related travel, in the form of advisory services. Sec. 1223(13)(F) of Public Law 105–277 redesignated subsecs. (h), (i), and (j) of sec. 401 as subsecs. (g), (h), and (i).

[90] Sec. 1223(13)(H) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–771) struck out "Deputy Director" and inserted in lieu thereof "Under Secretary for Arms Control and International Security".

[91] Formerly at 22 U.S.C. 2582. Sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–768) repealed this section, which pertained to Foreign Service personnel.

[92] Formerly at 22 U.S.C. 2583. Sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–768) repealed this section, which had pertained to contracts.

DUAL COMPENSATION LAWS [93]

SEC. 402.[94] Members of advisory boards and consultants may serve as such without regard to any [95] Federal law limiting the reemployment of retired officers or employees or governing the simultaneous receipt of compensation and retired pay or annuities, subject to section 201 of the Dual Compensation Act.[96] This section shall apply only to individuals carrying out activities related to arms control, nonproliferation, and disarmament.[97]

SEC. 45.[98] [Repealed—1998]

SEC. 46.[99] [Repealed—1998]

SEC. 47.[100] [Repealed—1998]

SEC. 48.[101] [Repealed—1998]

SEC. 49.[102] [Repealed—1998]

SEC. 50.[103] [Repealed—1998]

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[93] Sec. 1223(14)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–771) struck out "CONFLICT-OF-INTEREST AND" preceding "DUAL COMPENSATION LAWS" in the section catchline.

[94] 22 U.S.C. 2584. Sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) redesignated this section from sec. 44.

[95] Sec. 1223(14)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–771) struck out "The members of the General Advisory Committee created by section 26 of this Act, and the members of the advisory boards, the consultants, and the individuals of outstanding ability employed without compensation, all of which are provided in section 41 of this Act, may serve as such without regard to the provisions of section 281, 283, 284, or 1914 of title 18 of the United States Code, or of section 190 of the Revised Statutes (5 U.S.C. 99), or of any other Federal law imposing restrictions, requirements, or penalties in relation to the employment of individuals, the performance of services, or the payment or receipt of compensation in connection with any claim, proceeding, or matter involving the United States Government, except insofar as such provisions of law may prohibit any such individual from receiving compensation from a source other than a nonprofit educational institution in respect of any particular matter in which the Agency is directly interested. Nor shall such service be considered as employment or holding of office or position bringing such individual within the provisions of section 13 of the Civil Service Retirement Act (5 U.S.C. 2263), or any other" and inserted in lieu thereof "Members of advisory boards and consultants may serve as such without regard to any".

[96] Now codified as 5 U.S.C. 5532. Sec. 401(d)(2) of Public Law 88–448, the Dual Compensation Act, added the last nine words to this sentence.

[97] Sec. 1223(14)(C) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–771) added "This section shall apply only to individuals carrying out activities related to arms control, nonproliferation, and disarmament.".

[98] Formerly at 22 U.S.C. 2585. Sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–768) repealed this section, which pertained to security requirements.

[99] Formerly at 22 U.S.C. 2586. Sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–768) repealed this section, which pertained to the Comptroller General audit.

[100] Formerly at 22 U.S.C. 2587. Sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–768) repealed this section, which pertained to the consolidation and transfer of activities to ACDA.

[101] Formerly at 22 U.S.C. 2588. Sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–768) repealed this section, which pertained to the use of authorized and appropriated funds.

[102] Formerly at 22 U.S.C. 2591. Sec. 4 of Public Law 98–202 originally added this section. Sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–768) repealed this section, which pertained to specialists fluent in Russian or other languages of the independent states of the former Soviet Union.

[103] Formerly at 22 U.S.C. 2593. Sec. 6(a) of Public Law 100–213 originally added this section as sec. 53. Sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–768) repealed this section, which pertained to the appointment and duties of the ACDA Inspector General.

ANNUAL REPORT TO CONGRESS

SEC. 403.[104] (a) IN GENERAL.—Not later than April 15[105] of each year, the President[106] shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a report prepared by the Secretary of State with the concurrence of the Director of Central Intelligence and in consultation with[107] the Secretary of Defense, the Secretary of Energy, and the Chairman of the Joint Chiefs of Staff,[108] on the status of United States policy and actions with respect to arms control, nonproliferation, and disarmament. Such report shall include—

(1) a detailed statement concerning the arms control, nonproliferation,[109] and disarmament objectives of the executive branch of Government for the forthcoming year;

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[104] 22 U.S.C. 2593a. Sec. 717(a)(3) of Public Law 103–236 (108 Stat. 498) added this section as sec. 51. Sec. 717(a)(2) of that Act redesignated the former sec. 51, which pertained to foreign language specialists, as sec. 49. Sec. 717(a)(1) of the Act struck out the former sec. 50, which required an annual report concerning the activities of ACDA, and sec. 704(3) repealed sec. 52, entitled "REPORTS ON ADHERENCE TO AND COMPLIANCE WITH AGREEMENTS". This new sec. 51 incorporated the substance of the former sec. 52, which sec. 703 of Public Law 99–93 had originally added, and sec. 5 of Public Law 100–213 and sec. 401(c) of Public Law 103–199 had amended.

Sec. 717(b) of that Act further provided:

"(b) REPORT ON REVITALIZATION OF ACDA.—Not later than December 31, 1995, the Director of the United States Arms Control and Disarmament Agency shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a detailed report describing the actions that have been taken and that are underway to revitalize the United States Arms Control and Disarmament Agency pursuant to the provisions of this part and the amendments made by this part.".

Sec. 828(b) of that Act further provided:

"(b) REPORTING ON DEMARCHES.—(1) It is the sense of the Congress that the Department of State should, in the course of implementing its reporting responsibilities under section 602(c) of the Nuclear Non-Proliferation Act of 1978, include a summary of demarches that the United States has issued or received from foreign governments with respect to activities which are of significance from the proliferation standpoint.

"(2) For purposes of this section, the term 'demarche' means any official communication by one government to another, by written or oral means, intended by the originating government to express—

"(A) a concern over a past, present, or possible future action or activity of the recipient government, or of a person within the jurisdiction of that government, contributing to the global spread of unsafeguarded special nuclear material or of nuclear explosive devices;

"(B) a request for the recipient government to counter such action or activity; or

"(C) both the concern and request described in subparagraphs (A) and (B).".

Sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) redesignated this section from sec. 51.

[105] Sec. 1103 of the Security Assistance Act of 2002 (division B of Public Law 107–228; 116 Stat. 1426) struck out "January 31" and inserted in lieu thereof "April 15".

[106] In sec. 1(a)(15) of Executive Order 13313 of July 31, 2003 (68 F.R. 46073; August 5, 2003), the President assigned the reporting duties in subsec. (a) to the Secretary of State. Pursuant to Executive Order 13313, the Secretary of State delegated the authority to submit a report on the implementation of the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions ("Moscow Treaty"; 41 I.L.M. 499) pursuant to condition (2) of the March 6, 2003 Resolution of Advice and Consent to Ratification of the Moscow Treaty (Treaty Doc. 107–08; approved March 6, 2003) to the Under Secretary of State for Arms Control and International Security (Delegation of Authority 297 of October 25, 2006; 72 F.R. 14162).

[107] Sec. 1223(15)(A)(ii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–771) struck out "Director, in consultation with the Secretary of State," and inserted in lieu thereof "Secretary of State with the concurrence of the Director of Central Intelligence and in consultation with".

[108] Sec. 1223(15)(A)(iii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–771) struck out "the Chairman of the Joint Chiefs of Staff, and the Director of Central Intelligence" and inserted in lieu thereof "and the Chairman of the Joint Chiefs of Staff".

[109] Sec. 1223(15)(A)(i) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–771) inserted ", nonproliferation," after "arms control".

(2)[110] a detailed assessment of the status of any ongoing arms control, nonproliferation,[109] or disarmament negotiations, including a comprehensive description of negotiations or other activities during the preceding year and an appraisal of the status and prospects for the forthcoming year;

(3)[110] a detailed assessment of adherence of the United States to obligations undertaken in arms control, nonproliferation, and disarmament agreements, including information on the policies and organization of each relevant agency or department of the United States to ensure adherence to such obligations, a description of national security programs with a direct bearing on questions of adherence to such obligations and of steps being taken to ensure adherence, and a compilation of any substantive questions raised during the preceding year and any corrective action taken;[111]

(4)[110] a detailed assessment of the adherence of other nations to obligations undertaken in all arms control, nonproliferation, and disarmament agreements or commitments, including the Missile Technology Control Regime,[112] to which the United States is a participating state, including information on actions taken by each nation with regard to the size, structure, and disposition of its military forces in order to comply with arms control, nonproliferation, or disarmament agreements or commitments,[113] and shall include, in the case of each agreement or commitment[114] about which compliance questions exist—

(A) a description of each significant issue raised and efforts made and contemplated with the other participating state to seek resolution of the difficulty;

(B) an assessment of damage, if any, to the United States security and other interests; and

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[110] Sec. 1223(15)(A)(iv) and (v) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–771) struck out paras. (2) and (4), and redesignated the remaining paras. (3), (5), (6), and (7) as paras. (2) through (5), respectively. Former paras. (2) and (4) read as follows:

"(2) a detailed statement concerning the nonproliferation objectives of the executive branch of Government for the forthcoming year;"

and

"(4) a detailed assessment of the status of any ongoing nonproliferation negotiations or other activities, including a comprehensive description of the negotiations or other activities during the preceding year and an appraisal of the status and prospects for the forthcoming year;".

[111] Sec. 828(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 520) first, struck out "and" at the end of this paragraph; second, struck out a period at the end of the next paragraph and inserted in lieu thereof "; and"; and third, added a new para. (7). Sec. 1223(15)(A)(v) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–771) redesignated para. (7) of this section as para. (5) as reflected here.

[112] Sec. 1113(a)(1)(A) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), inserted "or commitments, including the Missile Technology Control Regime," after "agreements".

[113] Sec. 1113(a)(1)(B) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), inserted "or commitments" after "agreements".

[114] Sec. 1113(a)(1)(C) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), inserted "or commitment" after "agreement".

(C) recommendations as to any steps that should be considered to redress any damage to United States national security and to reduce compliance problems;[115]

(5)[110, 111] a discussion of any material noncompliance by foreign governments with their binding commitments to the United States with respect to the prevention of the spread of nuclear explosive devices (as defined in section 830(4) of the Nuclear Proliferation Prevention Act of 1994) by non-nuclear-weapon states (as defined in section 830(5) of that Act) or the acquisition by such states of unsafeguarded special nuclear material (as defined in section 830(8) of that Act), including—

(A) a net assessment of the aggregate military significance of all such violations;

(B) a statement of the compliance policy of the United States with respect to violations of those commitments; and

(C) what actions, if any, the President has taken or proposes to take to bring any nation committing such a violation into compliance with those commitments; and[116]

(6)[116] a specific identification, to the maximum extent practicable in unclassified form, of each and every question that exists with respect to compliance by other countries with arms control, nonproliferation, and disarmament agreements with the United States.

(b) CLASSIFICATION OF THE REPORT.—The report required by this section shall be submitted in unclassified form, with classified annexes, as appropriate. The portions of this report described in paragraphs (4) and (5) of subsection (a) shall summarize in detail, at least in classified annexes, the information, analysis, and conclusions relevant to possible noncompliance by other nations that are provided by United States intelligence agencies.[117]

(c)[118] REPORTING CONSECUTIVE NONCOMPLIANCE.—If the President in consecutive reports submitted to the Congress under this section reports that any designated nation is not in full compliance with its binding nonproliferation commitments to the United States, then the President shall include in the second such report an assessment of what actions are necessary to compensate for such violations.

(d)[119] Each report required by this section shall include a discussion of each significant issue described in subsection (a)(6) that was contained in a previous report issued under this section during 1995, or after December 31, 1995, until the question or concern has

[115] Sec. 1113(a)(1)(D) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536) struck out "and" at the end of subpara. (C).

[116] Sec. 1113(a)(2) and (3) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), struck out a period at the end of para. (5); inserted in lieu thereof "; and"; and added a new para. (6).

[117] Sec. 1223(15)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–771) added the second sentence to this subsection.

[118] Sec. 828(a)(4) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 520), added subsec. (c).

[119] Sec. 1113(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), added subsec. (d).

been resolved and such resolution has been reported in detail to the appropriate committees of Congress (as defined in section 1102(1) of the Arms Control, Non-Proliferation, and Security Assistance Act of 1999).

PUBLIC ANNUAL REPORT ON WORLD MILITARY EXPENDITURES AND ARMS TRANSFERS

SEC. 404.[120] Not later than December 31 of each year, the Secretary of State[121] shall publish an unclassified report on world military expenditures and arms transfers. Such report shall provide detailed, comprehensive, and statistical information regarding military expenditures, arms transfers, armed forces, and related economic data for each country of the world. In addition, such report shall include pertinent in-depth analyses as well as highlights with respect to arms transfers and proliferation trends and initiatives affecting such developments.

SEC. 53.[122] [Repealed—1998]

SEC. 54.[123] [Repealed—1998]

## TITLE V—ON-SITE INSPECTION ACTIVITIES[124]

FINDINGS

SEC. 501.[125] The Congress finds that—

(1) under this Act, the Department of State[126] is charged with the "formulation and implementation of United States arms control and disarmament policy in a manner which will promote the national security";

(2)[127] the On-Site Inspection Agency was established in 1988 pursuant to the INF Treaty to implement, on behalf of the United States, the inspection provisions of the INF Treaty;

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[120] 22 U.S.C. 2593b. Sec. 717(a)(3) of Public Law 103–236 (108 Stat. 498) added this section as sec. 52. Sec. 704(3) of that Act repealed the former sec. 52, entitled "REPORTS ON ADHERENCE TO AN COMPLIANCE WITH AGREEMENTS". Sec. 717(a)(3) of that Act incorporated the substance of the former sec. 52 into a new sec. 51. Sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) redesignated this section from sec. 52.

[121] Sec. 1223(16) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) struck out "Director" and inserted in lieu thereof "Secretary of State".

[122] Formerly at 22 U.S.C. 2593c. Sec. 718(a) of Public Law 103–236 (108 Stat. 500) originally added this section. Sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–768) repealed this section, which pertained to the requirement to authorize appropriations. For a comprehensive history of authorization and appropriations levels, see footnotes relating to this section in *Legislation on Foreign Relations Through 1996*, vol. II, beginning at page 1252.

[123] Formerly at 22 U.S.C. 2593d. Sec. 718(a) of Public Law 103–236 (108 Stat. 500) originally added this section. Sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–768) repealed this section, which pertained to transfer of funds, notification, and reprogramming.

[124] For related legislation on United States program for on-site inspections under arms control agreements, see sec. 1014 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1547).

[125] 22 U.S.C. 2595. Sec. 201 of Public Law 101–216 originally added this section as sec. 61. Sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) redesignated this section from sec. 61.

[126] Sec. 1223(17)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) struck out "United States Arms Control and Disarmament Agency" and inserted in lieu thereof "Department of State".

[127] Sec. 1223(17)(B) and (C) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) struck out para. (2) and redesignated paras. (3) through (7) as paras. (2) through (6). Former para. (2) provided as follows:

(3)[127] on-site inspection activities under the INF Treaty include—

(A) inspections in Russia, Ukraine, Kazakhstan, Belarus, Turkmenistan, Uzbekistan, the Czech Republic, and Germany,[128]

(B) escort duties for[129] teams visiting the United States and the Basing Countries,

(C) establishment and operation of the Portal Monitoring Facility in Russia,[130] and

(D) support for the[131] inspectors at the Portal Monitoring Facility in Utah;

(4)[132] the On-Site Inspection Agency has additional responsibilities to those specified in paragraph (3),[133] including the monitoring of nuclear tests pursuant to the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty and the monitoring of the inspection provisions of such additional arms control agreements as the President may direct;

(5)[132] the personnel of the On-Site Inspection Agency include civilian technical experts, civilian support personnel, and members of the Armed Forces; and

(6)[132] the senior officials of the On-Site Inspection Agency include representatives from the[134] Department of State.

POLICY COORDINATION CONCERNING IMPLEMENTATION OF ON-SITE INSPECTION PROVISIONS

SEC. 502.[135] (a) INTERAGENCY COORDINATION.—OSIA should receive policy guidance which is formulated through an interagency mechanism established by the President.

(b) ROLE OF THE SECRETARY OF DEFENSE.—The Secretary of Defense should provide to OSIA appropriate policy guidance formulated through the interagency mechanism described in subsection (a) and operational direction, consistent with section 113(b) of title 10, United States Code.

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"(2) as defined in this Act, the terms 'arms control' and 'disarmament' means 'the identification, verification, inspection, limitation, control, reduction, or elimination, of armed forces and armaments of all kinds under international agreement to establish an effective system of international control';".

[128] Sec. 401(d)(1) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2324) struck out "the Soviet Union, Czechoslovakia, and the German Democratic Republic", and inserted in lieu thereof "Russia, Ukraine, Kazakhstan, Belarus, Turkmenistan, Uzbekistan, the Czech Republic, and Germany".

[129] Sec. 401(d)(2) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2324) struck out "Soviet" at this point.

[130] Sec. 401(d)(3) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2324) struck out "the Soviet Union" and inserted in lieu thereof "Russia".

[131] Sec. 401(d)(4) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2324) struck out "Soviet" at this point.

[132] Sec. 402(a)(1) of Public Law 102–228 redesignated paras. (5) and (6) as paras. (6) and (7), respectively, and added a new para. (5). Sec. 1223(17)(C) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) subsequently redesignated paras. (3) through (7) as paras. (2) through (6).

[133] Sec. 1223(17)(D) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) struck out "paragraph (4)" and inserted in lieu thereof "paragraph (3)".

[134] Sec. 1223(17)(E) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) struck out "United States Arms Control and Disarmament Agency and the" at this point.

[135] 22 U.S.C. 2595a. Sec. 201 of Public Law 101–216 originally added this section. Sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) redesignated this section from sec. 62.

(c) ROLE OF THE SECRETARY OF STATE[136].—The Secretary of State[136] should provide to the interagency mechanism described in subsection (a) appropriate recommendations for policy guidance to OSIA consistent with sections 102(3) and 304(b)[137] of this Act.

SEC. 63.[138] [Repealed—1998]

**SEC. 503.[139] REVIEW OF CERTAIN REPROGRAMMING NOTIFICATIONS.**

Any[140] notification submitted to the Congress with respect to a proposed transfer, reprogramming, or reallocation of funds from or within the budget of OSIA shall also be submitted to the Committee on International Relations[141] of the House of Representatives and the Committee on Foreign Relations of the Senate, and shall be subject to review by those committees.

DEFINITIONS

SEC. 504.[142] As used in this title—

(1) the term "INF Treaty" means the Treaty Between the United States of America[143] and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles (signed at Washington, December 8, 1987);[144]

(2) the term "OSIA" means the On-Site Inspection Agency established by the President, or such other agency as may be designated by the President to carry out the on-site inspection provisions of the INF Treaty;[144]

(3)[144] the term "Peaceful Nuclear Explosions Treaty means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on Underground Nuclear Explosions for Peaceful Purposes (signed at Washington and Moscow, May 28, 1976); and

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[136] Sec. 1223(18)(A)(i) and (B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) struck out "Director" and inserted in lieu thereof "Secretary of State" in the subsection heading and in the first sentence.

[137] Sec. 1223(18)(A)(ii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) struck out "2(d), 22, and 34(c)" and inserted in lieu thereof "102(3) and 304(b)".

[138] Formerly at 22 U.S.C. 2595b. Sec. 201 of Public Law 101–216 originally added this section. Sec. 1222 of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–768) subsequently repealed this section, which pertained to authorizations of appropriations for on-site inspection.

[139] 22 U.S.C. 2595b–1. Sec. 402(b)(2) of Public Law 102–228 added this section as sec. 64. Sec. 1223(19)(A) and (B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) redesignated the section as sec. 503, restated the section catchline, and struck out subsec. (a), which required the President to file a one-time report on On-Site Inspection Activities. Sec. 1223(21) of that Act also redesignated the section as sec. 503.

[140] Sec. 1223(19)(C)(i) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) struck out "(b) REVIEW OF CERTAIN REPROGRAMMING NOTIFICATIONS.—" at the beginning of the section.

[141] Sec. 1223(19)(C)(ii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) struck out "Foreign Affairs" and inserted in lieu thereof "International Relations".

[142] 22 U.S.C. 2595c. Sec. 201 of Public Law 101–216 added this section as sec. 64. Sec. 402(b)(1) of Public Law 102–228 redesignated this section as sec. 65, and sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) further redesignated the section from sec. 65.

[143] Sec. 1223(20) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) inserted "of America" after "United States".

[144] Sec. 402(b)(2) of Public Law 102–228 struck out "and" at the end of para. (1); struck out the period at the end of para. (2) and inserted in lieu thereof a semicolon; and added new paras. (3) and (4).

(4)[144] the term "Threshold Test Ban Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Underground Nuclear Weapons Tests (signed at Moscow, July 3, 1974).

## 2. Arms Control and Disarmament Authorization—Prior Years

### a. Arms Control and Nonproliferation Authorization—Fiscal Year 2003

**Partial text of Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002**

* * * * * * *

## DIVISION B—SECURITY ASSISTANCE ACT OF 2002 [1]

## TITLE X—GENERAL PROVISIONS

**SEC. 1001. SHORT TITLE.**

This division may be cited as the "Security Assistance Act of 2002."

* * * * * * *

## TITLE XI—VERIFICATION OF ARMS CONTROL AND NONPROLIFERATION AGREEMENTS

**SEC. 1101. VERIFICATION AND COMPLIANCE BUREAU PERSONNEL.**

(a) IN GENERAL.—Of the amount authorized to be appropriated by section 111(a)(1)(A), $14,000,000 is authorized to be available for the Bureau of Verification and Compliance of the Department of State for Bureau-administered activities, including the Key Verification Assets Fund and to upgrade Bureau spaces for certification as a Sensitive Compartmented Information Facility (SCIF).

(b) ADDITIONAL PERSONNEL.—In addition to the amount made available under subsection (a), $1,800,000 is authorized to be available for the fiscal year 2003 from the Department's American Salaries Account, for the purpose of hiring new personnel to carry out the Bureau's responsibilities, as set forth in section 112 of the Arms Export Control and Nonproliferation Act of 1999 (113 Stat. 1501A–486), as enacted into law by section 1000(a)(7) of Public Law 106–113, including the assignment of one full-time person to the Bureau to manage the document control, tracking, and printing requirements of the Bureau's operation in a SCIF.

**SEC. 1102. KEY VERIFICATION ASSETS FUND.**

Of the total amount made available to the Department for fiscal year 2003, $7,000,000 is authorized to be available within the Verification and Compliance Bureau's account to carry out section 1111 of the Arms Control and Nonproliferation Act of 1999 (113

[1] Freestanding sections of the Security Assistance Act of 2002 may be found in *Legislation on Foreign Relations Through 2008*, vol. I–B.

Stat. 1501A–486), as enacted into law by section 1000(a)(7) of Public Law 106–113.

**SEC. 1103. REVISED VERIFICATION AND COMPLIANCE REPORTING REQUIREMENTS.**

Section 403(a) of the Arms Control and Disarmament Act (22 U.S.C. 2593a(a)) is amended * * *

## b. Arms Control and Nonproliferation Act of 1999

**Partial text of Public Law 106–113 [Consolidated Appropriations Act, 2000; H.R. 3194, enacting by reference the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; H.R. 3427], 113 Stat. 1501, approved November 29, 1999; as amended by Public Law 109–401 [Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006; H.R. 5682], 120 Stat. 2726, approved December 18, 2006**

AN ACT Making consolidated appropriations for the fiscal year ending September 30, 2000, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the serveral departments, agencies, corporations and other organizational units of the Government for the fiscal year 2000, and for other purposes, namely:

* * * * * * *

DIVISION B

SEC. 1000. (a) The provisions of the following bills are hereby enacted into law:

(1)–(6) * * *

(7) H.R. 3427 of the 106th Congress, as introduced on November 17, 1999, * * *

(8)–(9) * * *

* * * * * * *

APPENDIX G—H.R. 3427

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001".

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## DIVISION B—ARMS CONTROL, NONPROLIFERATION, AND SECURITY ASSISTANCE PROVISIONS

**SEC. 1001.[1] SHORT TITLE.**

This division may be cited as the "Arms Control, Nonproliferation, and Security Assistance Act of 1999".

[1] 22 U.S.C. 2751 note.

# TITLE XI—ARMS CONTROL AND NONPROLIFERATION

**SEC. 1101. SHORT TITLE.**

This title may be cited as the "Arms Control and Nonproliferation Act of 1999".

**SEC. 1102.[2] DEFINITIONS.**

In this title:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term "appropriate committees of Congress" means the Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate.

(2) ASSISTANT SECRETARY.—The term "Assistant Secretary" means the position of Assistant Secretary of State for Verification and Compliance designated under section 1112.

(3) EXECUTIVE AGENCY.—The term "Executive agency" has the meaning given the term in section 105 of title 5, United States Code.

(4) INTELLIGENCE COMMUNITY.—The term "intelligence community" has the meaning given the term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(5) START TREATY OR TREATY.—The term "START Treaty" or "Treaty" means the Treaty With the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms, including all agreed statements, annexes, protocols, and memoranda, signed at Moscow on July 31, 1991.

(6) START II TREATY.—The term "START II Treaty" means the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms, and related protocols and memorandum of understanding, signed at Moscow on January 3, 1993.

## Subtitle A—Arms Control

## CHAPTER 1—EFFECTIVE VERIFICATION OF COMPLIANCE WITH ARMS CONTROL AGREEMENTS

**SEC. 1111. KEY VERIFICATION ASSETS FUND.**

(a) IN GENERAL.—The Secretary of State is authorized to transfer funds available to the Department of State under this section to the Department of Defense, the Department of Energy, or any agency, entity, or component of the intelligence community, as needed, for retaining, researching, developing, or acquiring technologies or programs relating to the verification of arms control, nonproliferation, and disarmament agreements or commitments.

(b) PROHIBITION ON REPROGRAMMING.—Notwithstanding any other provision of law, funds made available to carry out this section may not be used for any purpose other than the purposes specified in subsection (a).

(c) FUNDING.—Of the total amount of funds authorized to be appropriated to the Department of State by this Act for the fiscal

[2] 22 U.S.C. 2652c note.

years 2000 and 2001, $5,000,000 is authorized to be available for each such fiscal year to carry out subsection (a).

(d) DESIGNATION OF FUND.—Amounts made available under subsection (c) may be referred to as the "Key Verification Assets Fund".

**SEC. 1112.[3] ASSISTANT SECRETARY OF STATE FOR VERIFICATION AND COMPLIANCE.**

(a) DESIGNATION OF POSITION.—The Secretary of State shall designate one of the Assistant Secretaries of State authorized by section 1(c)(1) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(c)(1)) as the Assistant Secretary of State for Verification and Compliance. The Assistant Secretary shall report to the Under Secretary of State for Arms Control and International Security.

(b) DIRECTIVE GOVERNING THE ASSISTANT SECRETARY OF STATE.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary of State shall issue a directive governing the position of the Assistant Secretary.

(2) ELEMENTS OF THE DIRECTIVE.—The directive issued under paragraph (1) shall set forth, consistent with this section—

(A) the duties of the Assistant Secretary;

(B) the relationships between the Assistant Secretary and other officials of the Department of State;

(C) any delegation of authority from the Secretary of State to the Assistant Secretary; and

(D) such matters as the Secretary considers appropriate.

(c) DUTIES.—

(1) IN GENERAL.—The Assistant Secretary shall have as his principal responsibility the overall supervision (including oversight of policy and resources) within the Department of State of all matters relating to verification and compliance with international arms control, nonproliferation, and disarmament agreements or commitments.

(2) PARTICIPATION OF THE ASSISTANT SECRETARY.—

(A) PRIMARY ROLE.—Except as provided in subparagraphs (B) and (C), the Assistant Secretary, or his designee, shall participate in all interagency groups or organizations within the executive branch of Government that assess, analyze, or review United States planned or ongoing policies, programs, or actions that have a direct bearing on verification or compliance matters, including interagency intelligence committees concerned with the development or exploitation of measurement or signals intelligence or other national technical means of verification.

(B) REQUIREMENT FOR DESIGNATION.—Subparagraph (A) shall not apply to groups or organizations on which the Secretary of State or the Undersecretary of State for Arms Control and International Security sits, unless such official designates the Assistant Secretary to attend in his stead.

(C) NATIONAL SECURITY LIMITATION.—

[3] 22 U.S.C. 2652c.

(i) WAIVER BY PRESIDENT.—The President may waive the provisions of subparagraph (A) if inclusion of the Assistant Secretary would not be in the national security interests of the United States.

(ii) WAIVER BY OTHERS.—With respect to an interagency group or organization, or meeting thereof, working with exceptionally sensitive information contained in compartments under the control of the Director of Central Intelligence, the Secretary of Defense, or the Secretary of Energy, such Director or Secretary, as the case may be, may waive the provision of subparagraph (A) if inclusion of the Assistant Secretary would not be in the national security interests of the United States.

(iii) TRANSMISSION OF WAIVER TO CONGRESS.—Any waiver of participation under clause (i) or (ii) shall be transmitted in writing to the appropriate committees of Congress.

(3) RELATIONSHIP TO THE INTELLIGENCE COMMUNITY.—The Assistant Secretary shall be the principal policy community representative to the intelligence community on verification and compliance matters.

(4) REPORTING RESPONSIBILITIES.—The Assistant Secretary shall have responsibility within the Department of State for—

(A) all reports required pursuant to section 306 of the Arms Control and Disarmament Act (22 U.S.C. 2577);

(B) so much of the report required under paragraphs (4) through (6) of section 403(a) of the Arms Control and Disarmament Act (22 U.S.C. 2593a(a)(4) through (6)) as relates to verification or compliance matters;[4]

(C)[4] so much of the reports required under section 104 of the Henry J. Hyde United States–India Peaceful Atomic Energy Cooperation Act of 2006 as relates to verification or compliance matters; and

(D)[4] other reports being prepared by the Department of State as of the date of enactment of this Act relating to arms control, nonproliferation, or disarmament verification or compliance matters.

**SEC. 1113. ENHANCED ANNUAL ("PELL") REPORT.**

(a) ANNUAL REPORT.—Section 403(a) of the Arms Control and Disarmament Act (22 U.S.C. 2593a(a)) is amended—* * *

(b) ADDITIONAL REQUIREMENT.—Section 403 of the Arms Control and Disarmament Act (22 U.S.C. 2593a) is amended by adding at the end the following: * * *

**SEC. 1114. REPORT ON START AND START II TREATIES MONITORING ISSUES.**

(a) REPORT.—Not later than 180 days after the date of enactment of this Act, the Director of Central Intelligence shall submit to the appropriate committees of Congress a detailed report in classified form. Such report shall include the following:

[4] Sec. 108 of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 (Public Law 109–401; 120 Stat. 2738) struck out "and" from the end of subpara. (B), redesignated subpara. (C) as subpara. (D), and inserted a new subpara. (C).

(1) A comprehensive identification of all monitoring activities associated with the START Treaty and the START II Treaty.

(2) The specific intelligence community assets and capabilities, including analytical capabilities, that the Senate was informed, prior to the Senate giving its advice and consent to ratification of the treaties, would be necessary to accomplish those activities.

(3) An identification of the extent to which those assets and capabilities have, or have not, been attained or retained, and the corresponding effect this has had upon United States monitoring confidence levels.

(4) An assessment of any Russian activities relating to the START Treaty which have had an impact upon the ability of the United States to monitor Russian adherence to the Treaty.

(b) COMPARTMENTED ANNEX.—Exceptionally sensitive, compartmented information in the report required by this section may be provided in a compartmented annex submitted to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

**SEC. 1115. STANDARDS FOR VERIFICATION.**

(a) VERIFICATION OF COMPLIANCE.—Section 306(a) of the Arms Control and Disarmament Act (22 U.S.C. 2577(a)) is amended in the matter preceding paragraph (1) by striking "adequately".

(b) ASSESSMENTS UPON REQUEST.—Section 306 of the Arms Control and Disarmament Act (22 U.S.C. 2577) is amended— * * *

**SEC. 1116.[5] CONTRIBUTION TO THE ADVANCEMENT OF SEISMOLOGY.**

The United States Government shall, to the maximum extent practicable, make available to the public in real time, or as quickly as possible, all raw seismological data provided to the United States Government by any international organization that is directly responsible for seismological monitoring.

**SEC. 1117.[6] PROTECTION OF UNITED STATES COMPANIES.**

(a) REIMBURSEMENT.—During the 2-year period beginning on the date of the enactment of this Act, the United States National Authority (as designated pursuant to section 101 of the Chemical Weapons Convention Implementation Act of 1998 (as contained in division I of Public Law 105–277)) shall, upon request of the Director of the Federal Bureau of Investigation, reimburse the Federal Bureau of Investigation for all costs incurred by the Bureau for such period in connection with implementation of section 303(b)(2)(A) of that Act, except that such reimbursement may not exceed $2,000,000 for such 2-year period.

(b) REPORT.—Not later than 180 days prior to the expiration of the 2-year period described in subsection (a), the Director of the Federal Bureau of Investigation shall prepare and submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report on how activities under section 303(b)(2)(A) of the Chemical Weapons Convention Implementation Act of 1998 will be fully funded and implemented by the Federal Bureau of Investigation

[5] 42 U.S.C. 7704 note.
[6] 22 U.S.C. 6723 note.

notwithstanding the expiration of the 2-year period described in subsection (a).

**SEC. 1118.[7] REQUIREMENT FOR TRANSMITTAL OF SUMMARIES.**

Whenever a United States delegation engaging in negotiations on arms control, nonproliferation, or disarmament submits to the Secretary of State a summary of the activities of the delegation or the status of those negotiations, a copy of each such summary shall be further transmitted by the Secretary of State to the Committee on Foreign Relations of the Senate and to the Committee on International Relations of the House of Representatives promptly.

## CHAPTER 2—MATTERS RELATING TO THE CONTROL OF BIOLOGICAL WEAPONS[8]

* * * * * * *

[7] 22 U.S.C. 2593a note.
[8] For chapter 2, see this section, under "Nonproliferation of Weapons of Mass Destruction".

## c. Arms Control and Disarmament Agency—Authorization, Fiscal Year 1999

**Partial text of Public Law 105–277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998**

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## SUBDIVISION B—FOREIGN RELATIONS AUTHORIZATION

## TITLE XX—GENERAL PROVISIONS

**SEC. 2001. SHORT TITLE.**

This subdivision may be cited as the "Foreign Relations Authorization Act, Fiscal Years 1998 and 1999".

**SEC. 2002. DEFINITION OF APPROPRIATE CONGRESSIONAL COMMITTEES.**

In this subdivision, the term "appropriate congressional committees" means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

* * * * * * *

## TITLE XXVI—UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

**SEC. 2601. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out the purposes of the Arms Control and Disarmament Act $41,500,000 for the fiscal year 1999.

**SEC. 2602. STATUTORY CONSTRUCTION.**

Section 303 of the Arms Control and Disarmament Act (22 U.S.C. 2573), as redesignated by section 2223 of this division, is amended by adding at the end the following new subsection: * * *

* * * * * * *

## d. Arms Control and Nonproliferation Act of 1994

**Partial text of part A, title VII, of Public Law 103–236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382 at 491, approved April 30, 1994**

### TITLE VII—ARMS CONTROL

### PART A—ARMS CONTROL AND NONPROLIFERATION ACT OF 1994

**SEC. 701. SHORT TITLE; REFERENCES IN PART; TABLE OF CONTENTS.**

(a)[1] SHORT TITLE.—This part may be cited as the "Arms Control and Nonproliferation Act of 1994".

(b) REFERENCES IN PART.—Except as specifically provided in this part, whenever in this part an amendment or repeal is expressed as an amendment to or repeal of a provision, the reference shall be deemed to be made to the Arms Control and Disarmament Act.[2]

**SEC. 702. CONGRESSIONAL DECLARATIONS; PURPOSE.**

(a) CONGRESSIONAL DECLARATIONS.—The Congress declares that—

(1) a fundamental goal of the United States, particularly in the wake of the highly turbulent and uncertain international situation fostered by the end of the Cold War, the disintegration of the Soviet Union and the resulting emergence of fifteen new independent states, and the revolutionary changes in Eastern Europe, is to prevent the proliferation of nuclear weapons and their means of delivery and of advanced conventional armaments, to eliminate chemical and biological weapons, and to reduce and limit the large numbers of nuclear weapons in the former Soviet Union, as well as to prevent regional conflicts and conventional arms races; and

(2) an ultimate goal of the United States continues to be a world in which the use of force is subordinated to the rule of law and international change is achieved peacefully without the danger and burden of destabilizing and costly armaments.

(b) PURPOSE.—The purpose of this part is—

(1) to strengthen the United States Arms Control and Disarmament Agency; and

(2) to improve congressional oversight of the arms control, nonproliferation, and disarmament activities of the United States Arms Control and Disarmament Agency, and of the Agency's operating budget.

* * * * * * *

[1] 22 U.S.C. 2551 note.

[2] The Arms Control and Disarmament Act (Public Law 87–297), as published in this volume, reflects all such amendments at the appropriate places.

**SEC. 711. REPORT ON MEASURES TO COORDINATE RESEARCH AND DEVELOPMENT.**

Not later than December 31, 1994, the President shall submit to the Congress a report prepared by the Director of the United States Arms Control and Disarmament Agency, in coordination with the Secretary of State, the Secretary of Defense, the Secretary of Energy, the Chairman of the Joint Chiefs of Staff, and the Director of Central Intelligence, with respect to the procedures established pursuant to section 35 of the Arms Control and Disarmament Act (22 U.S.C. 2575) for the effective coordination of research and development on arms control, nonproliferation, and disarmament among all departments and agencies of the executive branch of Government.

* * * * * * *

**SEC. 713. NEGOTIATING RECORDS.**

(a) IN GENERAL.—The Arms Control and Disarmament Act is amended by inserting after section 37 the following: * * *

(b) REPORT REQUIRED.—Not later than January 31, 1995, the Director of the United States Arms Control and Disarmament Agency shall submit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a detailed report describing the actions he has undertaken to implement section 38 of the Arms Control and Disarmament Act.

**SEC. 714. AUTHORITIES WITH RESPECT TO NONPROLIFERATION MATTERS.**

(a)[3] AMENDMENTS TO THE ARMS EXPORT CONTROL ACT.—* * *

(b) AMENDMENT TO THE NUCLEAR NON-PROLIFERATION ACT.—Section 309(c) of the Nuclear Non-Proliferation Act of 1978 (42 U.S.C. 2139a(c)) is amended * * *

* * * * * * *

**SEC. 717. REPORTS.**

(a) IN GENERAL.—Title IV of the Arms Control and Disarmament Act is amended—* * *

(b)[4] REPORT ON REVITALIZATION OF ACDA.—Not later than December 31, 1995, the Director of the United States Arms Control and Disarmament Agency shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a detailed report describing the actions that have been taken and that are underway to revitalize the United States Arms Control and Disarmament Agency pursuant to the provisions of this part and the amendments made by this part.

* * * * * * *

[3] For text of the Arms Export Control Act, see *Legislation on Foreign Relations Through 2008*, vol. I–A.

[4] 22 U.S.C. 2551 note.

## e. Arms Control and Disarmament Act Authorization for Fiscal Years 1990 and 1991

**Partial text of Public Law 101–216 [H.R. 1495], 103 Stat. 1853, approved December 11, 1989**

NOTE.—Except for the provisions included below, this Act consists of amendments to the Arms Control and Disarmament Act. Those amendments have been incorporated into that Act at the appropriate places.

AN ACT To amend the Arms Control and Disarmament Act to authorize appropriations for the Arms Control and Disarmament Agency, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1.[1] SHORT TITLE.**

This Act may be cited as the "Arms Control and Disarmament Amendments Act of 1989".

TITLE I—ARMS CONTROL AND DISARMAMENT AGENCY

* * * * * * *

**SEC. 104.[2] ARMS CONTROL IMPLEMENTATION AND COMPLIANCE RESOLUTION.**

The Director for the United States Arms Control and Disarmament Agency should study, and report to the Congress on, the advisability of establishing in the Agency an arms control implementation and compliance resolution bureau, or other organizational unit, that would be responsible for—

(1) managing the implementation of existing and future arms control agreements;

(2) coordinating the activities of the Special Verification Commission and the Standing Consultative Commission; and

(3) preparing comprehensive analyses and policy positions regarding the effective resolution of arms control compliance questions.

**SEC. 105.[3] ARMS CONTROL VERIFICATION.**

(a) ESTABLISHMENT OF WORKING GROUP.—The President should establish a working group—

[1] 22 U.S.C. 2551 note.
[2] 22 U.S.C. 2565 note.
[3] 22 U.S.C. 2577a.

(1) to examine verification approaches to a strategic arms reduction agreement and other arms control agreements; and

(2) to assess the relevance for such agreements of the verification provisions of the Treaty Between the United States and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles (signed at Washington, December 8, 1987).

(b) INFORMATION AND DATA BASE.—(1) The Agency shall allocate sufficient resources to develop and maintain a comprehensive information and data base on verification concepts, research, technologies, and systems. The Agency shall collect, maintain, analyze, and disseminate information pertaining to arms control verification and monitoring, including information regarding—

(A) all current United States bilateral and multilateral arms treaties; and

(B) proposed, prospective, and potential bilateral or multilateral arms treaties in the areas of nuclear, conventional, chemical, and space weapons.

(2) The Agency shall seek to improve United States verification and monitoring activities through the monitoring and support of relevant research and analysis.

(3) The Agency shall provide detailed information on the activities pursuant to this section in its annual report to the Congress.

**SEC. 106. REPORTING REQUIREMENT ON PROSPECTS FOR CONVERSION OF UNITED STATES DEFENSE INDUSTRIES.**

The Director of the United States Arms Control and Disarmament Agency, in consultation with the Secretary of Defense and the Secretary of Commerce, shall study, and (not later than 180 days after the date of enactment of this Act) submit to the Congress a report, on concrete steps which could be taken to improve prospects for conversion of portions of United States defense industries to nondefense-related activities as opportunities are presented through the achievement of successful arms control agreements.

## TITLE II—ON-SITE INSPECTION ACTIVITIES[4]

* * * * * * *

[4] Title II added a new title V to the Arms Control and Disarmament Act. For related legislation on United States program for on-site inspections under arms control agreements, see also sec. 1014 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1547).

## f. Arms Control and Disarmament Act Authorization for Fiscal Years 1988 and 1989

**Partial text of Public Law 100–213 [H.R. 2689], 101 Stat. 1444, approved December 24, 1987**

NOTE.—Except for the provisions included below, the Act authorizing appropriations for ACDA for fiscal years 1988 and 1989 consists of amendments to the Arms Control and Disarmament Act. Those amendments have been incorporated into that Act at the appropriate places.

AN ACT To amend the Arms Control and Disarmament Act to authorize appropriations for the fiscal years 1988 and 1989 for the Arms Control and Disarmament Agency, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Arms Control and Disarmament Amendments Act of 1987".

* * * * * * *

**SEC. 3. STANDING CONSULTATIVE COMMISSION.**

(a) FINDINGS.—The Congress finds that—

(1) the Standing Consultative Commission was established by the United States and the Soviet Union under Article XIII of the Treaty on the Limitation of Anti-Ballistic Missile Systems as a framework for considering and resolving questions concerning compliance with arms control obligations; and

(2) the United States should raise and attempt to resolve issues relating to compliance by the United States and the Soviet Union with arms control agreements in the Standing Consultative Commission.

(b)[1] * * *

(c) STUDY AND REPORT.—The Director of the United States Arms Control and Disarmament Agency shall conduct a study to determine how the Standing Consultative Commission could be used more effectively to resolve arms control compliance issues. The Director shall report the results of this study to the Speaker of the House of Representatives and the chairman of the Committee on

[1] Subsec. (b) amended title III of the Arms Control and Disarmament Act by adding a new sec. 38 requiring the President to submit to Congress an annual report on the activities of the Standing Consultative Commission.

Foreign Relations of the Senate within 6 months after the date of enactment of this Act.

* * * * * * *

**SEC. 6. ACDA INSPECTOR GENERAL.**

(a)[2] * * *

(b) SURVEY OF ACDA CLASSIFIED INFORMATION SECURITY.—Not later than 90 days after the date of enactment of this Act, the Inspector General of the United States Arms Control and Disarmament Agency—

(1) shall conduct a survey of physical, personnel, document, and communications security programs, procedures, and practices at the Agency for the protection of classified information; and

(2) shall submit a report on the results of that survey, together with such recommendations for improvement of classified information security at the Agency as the Inspector General considers appropriate, to the Director of the Agency and to the Committee on Foreign Affairs[3] of the House of Representatives and the Committee on Foreign Relations of the Senate.

[2] Subsec. (a) amended title IV of the Arms Control and Disarmament Act by adding a new sec. 53 establishing an Office of the Inspector General of the Arms Control and Disarmament Agency.

[3] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

## g. Arms Control and Disarmament Act Authorization for Fiscal Years 1986 and 1987

**Partial text of Public Law 99–93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 405 at 444, approved August 16, 1985**

NOTE.—Except for the provisions included below, this Act consists of amendments to the Arms Control and Disarmament Act and title V, United States Code. Those amendments have been incorporated at the appropriate places.

AN ACT To authorize appropriations for fiscal years 1986 and 1987 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

* * * * * * *

**SEC. 705. NEW BUILDING IN GENEVA FOR THE USE OF THE UNITED STATES ARMS CONTROL NEGOTIATING TEAMS.**

(a) FINDINGS.—The Congress finds that—

(1) the United States is party to vital talks on arms control in Geneva, Switzerland;

(2) these talks include negotiations on strategic nuclear weapons, intermediate range nuclear weapons, space and defense systems, a bilateral United States-Soviet forum, called the Standing Consultative Commission and a multilateral forum, called the Conference on Disarmament;

(3) the United States delegations to these talks occupy buildings and spaces insufficiently secure, modernized, or large enough to permit those delegations to conduct their work efficiently;

(4) the United States delegations to the strategic, intermediate and space and defense talks in particular occupy space in the Botanic Building that is also occupied by offices of numerous other, non-United States organizations, and shares common walls and parking facilities with these delegations;

(5) arms control negotiations require sophisticated security facilities, telecommunications equipment, simultaneous translation capabilities and other specialized services; and

(6) the Soviet Union, for its part, has made available for its negotiating team a modern, secure, well-equipped building dedicated for the use of its arms control negotiating teams.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) in order to facilitate the effective work of the United States arms control negotiating teams, and to provide for them a dedicated structure capable of supporting their vital tasks on a permanent basis, the Secretary of State should submit to the Congress a report on the feasibility, cost, location, and requirements of a structure to house the United States arms control negotiating teams in Geneva;

(2) this report should be submitted as soon as possible; and

(3) this matter should be included in the consideration of the 1985 supplemental appropriation process.

**SEC. 706. STUDY OF MEASURES TO ENHANCE CRISIS STABILITY AND CONTROL.**

(a) STUDY.—The Secretary of State and the Director of the Arms Control and Disarmament Agency shall conduct a detailed and complete study and evaluation of additional measures which both enhance the security of the United States and reduce the likelihood of nuclear weapons use by contributing to crisis stability or crisis control capabilities, including specific consideration of the following measures:

(1) Increased redundancy of direct communications link circuits, including the creation of new survivable circuits and terminals, located outside the national capital which have access to the command and control system of the country in which they are located.

(2) Establishment of redundant, survivable direct communications links between and among all nuclear-armed states.

(3) Conclusion of an agreement creating "non-target" sanctuaries only for certain direct communications link circuits to enhance survivability of communications.

(4) Creation in advance of standard operating procedures for communicating, and possibly cooperating, with the Soviet Union and other states in the event of nuclear attacks by third parties on either the United States or Soviet Union.

(5) Addition to the Incidents At Sea agreement of a prohibition on the "locking on" of fire control radars on ships and planes of the other side, an agreement on the separation of naval forces during specified periods of crisis, and other such measures relevant to the Incidents At Sea agreement.

(6) Placement by the United States and the Soviet Union of unmanned launch sensors in the land-based missile fields of both countries.

(7) Establishment of anti-submarine operations free zones designed to enhance the security of ballistic missile submarines.

(8) Installation of permissive action links aboard the ballistic missile submarines of the United States, which might possibly be activated or deactivated at various levels of alert, and encouragement of the Soviet Union to do the same.

(9) Establishment of training programs for National Command Authority officials to familiarize them with alert proce-

dures, communications capabilities, nuclear weapons release authority procedures, and the crisis control and stability implications thereof.

(10) Include in standard operating procedure the relocation in a crisis of a National Command Authority official outside Washington, D.C. to a secure location with access to the strategic command and control system, and announce the institution of this procedure to relevant foreign governments.

(b) REPORT.—The Secretary of State and the Director of the Arms Control and Disarmament Agency shall submit a report of the study and evaluation under subsection (a) to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives [1] by January 1, 1986. Such report should be available in both a classified, if necessary, and unclassified format.

**SEC. 707. POLICY TOWARD BANNING CHEMICAL WEAPONS.**

(a) FINDINGS. —The Congress finds that—

(1) chemical weapons are among the most terrible weapons in today's military arsenals;

(2) it is the objective of the United States to eliminate the threat of chemical warfare through a comprehensive and verifiable ban on chemical weapons;

(3) the United States is vigorously pursuing a multilateral agreement to ban chemical weapons;

(4) the negotiation of a verifiable, bilateral agreement between the United States and the Soviet Union would be a significant step toward achieving a worldwide ban on chemical weapons;

(5) bilateral discussions relating to a ban on chemical weapons took place in July and August of 1984 between the United States and Soviet delegations to the Conference on Disarmament; and

(6) such endeavors could serve the security interests of humankind.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the President—

(1) should be commended for his efforts to negotiate a multilateral agreement banning chemical weapons;

(2) should continue to pursue vigorously such an agreement; and

(3) should seek the continuation and development of bilateral discussions between the United States and the Soviet Union to achieve a comprehensive and verifiable ban on chemical weapons.

[1] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

**SEC. 708. POLICY REGARDING A JOINT STUDY BY THE UNITED STATES AND THE SOVIET UNION OF THE CONSEQUENCES OF NUCLEAR WINTER.**

It is the sense of the Congress that the President should propose to the Government of the Soviet Union during any arms control talks held with such Government that—

(1) the United States and the Soviet Union should jointly study the atmospheric, climatic, environmental, and biological consequences of nuclear explosions, sometimes known as "nuclear winter", and the impact that nuclear winter would have on the national security of both nations;

(2) such a joint study should include the sharing and exchange of information and findings on the nuclear winter phenomena and make recommendations on possible joint research projects that would benefit both nations; and

(3) at an appropriate time the other nuclear weapons states (the United Kingdom, France, and the People's Republic of China) should be involved in the study.

## 3. Cooperative Threat Reduction

### a. Cooperative Threat Reduction, Fiscal Year 2009

**Partial text of Public Law 110–417 [Duncan Hunter National Defense Authorization Act for Fiscal Year 2009; S. 3001], 122 Stat. 4356, approved October 14, 2008**

AN ACT To authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; FINDINGS; SENSE OF CONGRESS.**

(a) SHORT TITLE.—This Act may be cited as the "Duncan Hunter National Defense Authorization Act for Fiscal Year 2009".

(b)–(c) * * *

* * * * * * *

## TITLE III—OPERATION AND MAINTENANCE

* * * * * * *

### Subtitle A—Authorization of Appropriations

**SEC. 301. OPERATION AND MAINTENANCE FUNDING.**

Funds are hereby authorized to be appropriated for fiscal year 2009 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1)–(18) * * *

(19) For Cooperative Threat Reduction programs, $434,135,000.

(20) * * *

* * * * * * *

## TITLE XIII—COOPERATIVE THREAT REDUCTION

Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
Sec. 1302. Funding allocations.

**SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.**

(a) SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501 of the National Defense Authorization Act for Fiscal Year 1997 (50 U.S.C. 2362 note).

(b) FISCAL YEAR 2009 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term "fiscal year 2009 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for fiscal years 2009, 2010, and 2011.

**SEC. 1302. FUNDING ALLOCATIONS.**

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the $434,135,000 authorized to be appropriated to the Department of Defense for fiscal year 2009 in section 301(19) for Cooperative Threat Reduction programs, the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $79,985,000.

(2) For strategic nuclear arms elimination in Ukraine, $6,400,000.

(3) For nuclear weapons storage security in Russia, $24,101,000.

(4) For nuclear weapons transportation security in Russia, $40,800,000.

(5) For weapons of mass destruction proliferation prevention in the states of the former Soviet Union, $59,286,000.

(6) For biological threat reduction in the former Soviet Union, $184,463,000.

(7) For chemical weapons destruction, $1,000,000.

(8) For defense and military contacts, $8,000,000.

(9) For new Cooperative Threat Reduction initiatives, $10,000,000.

(10) For activities designated as Other Assessments/Administrative Costs, $20,100,000.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2009 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (10) of subsection (a) until 15 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2009 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—

(1) IN GENERAL.—Subject to paragraph (2), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2009 for a purpose listed in paragraphs (1) through (10) of subsection (a) in excess of the specific amount authorized for that purpose.

(2) NOTICE-AND-WAIT REQUIRED.—An obligation of funds for a purpose stated in paragraphs (1) through (10) of subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

## b. Cooperative Threat Reduction Appropriations, 2009

**Partial text of Public Law 110–329 [Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009; H.R. 2638], 122 Stat. 3574, approved September 30, 2008**

AN ACT Making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009".

* * * * * * *

## DIVISION C—DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2009

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2009, for military functions administered by the Department of Defense and for other purposes, namely:

* * * * * * *

## TITLE II—OPERATION AND MAINTENANCE

* * * * * * *

### COOPERATIVE THREAT REDUCTION ACCOUNT

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, $434,135,000, to remain available until September 30, 2011: *Provided,* That of the amounts provided under this heading, $12,000,000 shall be available only to support the dismantling and disposal of nuclear submarines, submarine reactor components, and security enhancements for transport and storage of nuclear warheads in the Russian Far East.

* * * * * * *

## c. Cooperative Threat Reduction, Fiscal Year 2008

**Partial text of Public Law 110–181 [National Defense Authorization Act for Fiscal Year 2008; H.R. 4986], 122 Stat. 3, approved January 28, 2008**

AN ACT To provide for the enactment of the National Defense Authorization Act for Fiscal Year 2008, as previously enrolled, with certain modifications to address the foreign sovereign immunities provisions of title 28, United States Code, with respect to the attachment of property in certain judgments against Iraq, the lapse of statutory authorities for the payment of bonuses, special pays, and similar benefits for members of the uniformed services, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TREATMENT OF EXPLANATORY STATEMENT.**

(a) SHORT TITLE.—This Act may be cited as the "National Defense Authorization Act for Fiscal Year 2008".

* * * * * * *

## TITLE III—OPERATION AND MAINTENANCE

* * * * * * *

### Subtitle A—Authorization of Appropriations

**SEC. 301. OPERATION AND MAINTENANCE FUNDING.**

Funds are hereby authorized to be appropriated for fiscal year 2008 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1)–(18) * * *

(19) For Former Soviet Union Threat Reduction programs, $428,048,000.[1]

(20) * * *

* * * * * * *

[1] Title II of the Department of Defense Appropriations Act, 2008 (Public Law 110–116; 121 Stat. 1303) provided the following:

"FORMER SOVIET UNION THREAT REDUCTION ACCOUNT

"For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, $428,048,000, to remain available until September 30, 2010: *Provided,* That of the amounts provided under this heading, $12,000,000 shall be available only to support the dismantling and disposal of nuclear submarines, submarine reactor components, and security enhancements for transport and storage of nuclear warheads in the Russian Far East.".

# TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
Sec. 1302. Funding allocations.
Sec. 1303. Specification of Cooperative Threat Reduction programs in states outside the former Soviet Union.
Sec. 1304. Repeal of restrictions on assistance to states of the former Soviet Union for Cooperative Threat Reduction.
Sec. 1305. Modification of authority to use Cooperative Threat Reduction funds outside the former Soviet Union.
Sec. 1306. New initiatives for the Cooperative Threat Reduction Program.
Sec. 1307. Report relating to chemical weapons destruction at Shchuch'ye, Russia.
Sec. 1308. National Academy of Sciences study of prevention of proliferation of biological weapons.

**SEC. 1301.[2] SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.**

(a)[2] SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (50 U.S.C. 2362 note), as amended by section 1303 of this Act.

(b) FISCAL YEAR 2008 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term "fiscal year 2008 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

**SEC. 1302. FUNDING ALLOCATIONS.**

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the $428,048,000 authorized to be appropriated to the Department of Defense for fiscal year 2008 in section 301(19) for Cooperative Threat Reduction programs, the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $92,885,000.

(2) For nuclear weapons storage security in Russia, $47,640,000.

(3) For nuclear weapons transportation security in Russia, $37,700,000.

(4) For weapons of mass destruction proliferation prevention in the states of the former Soviet Union, $47,986,000.

(5) For biological weapons proliferation prevention in the former Soviet Union, $158,489,000.

(6) For chemical weapons destruction, $6,000,000.

(7) For defense and military contacts, $8,000,000.

(8) For new Cooperative Threat Reduction initiatives that are outside the former Soviet Union, $10,000,000.

(9) For activities designated as Other Assessments/Administrative Support, $19,348,000.

[2] 22 U.S.C. 5852 note.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2008 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (9) of subsection (a) until 30 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2008 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—

(1) IN GENERAL.—Subject to paragraph (2), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2008 for a purpose listed in paragraphs (1) through (9) of subsection (a) in excess of the specific amount authorized for that purpose.

(2) NOTICE–AND–WAIT REQUIRED.—An obligation of funds for a purpose stated in paragraphs (1) through (9) of subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

**SEC. 1303. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS IN STATES OUTSIDE THE FORMER SOVIET UNION.**

Section 1501 of the National Defense Authorization Act for Fiscal Year 1997 (50 U.S.C. 2362 note) is amended— * * *

**SEC. 1304. REPEAL OF RESTRICTIONS ON ASSISTANCE TO STATES OF THE FORMER SOVIET UNION FOR COOPERATIVE THREAT REDUCTION.**

(a) IN GENERAL.—

(1) SOVIET NUCLEAR THREAT REDUCTION ACT OF 1991.—The Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 22 U.S.C. 2551 note) is amended— * * *

(2) COOPERATIVE THREAT REDUCTION ACT OF 1993.—Section 1203 of the Cooperative Threat Reduction Act of 1993 (22 U.S.C. 5952) is amended * * *

(3) RUSSIAN CHEMICAL WEAPONS DESTRUCTION FACILITIES.—Section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 22 U.S.C. 5952 note) is repealed.

(4) CONFORMING REPEAL.—Section 1303 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 22 U.S.C. 5952 note) is repealed.

(b)[2] INAPPLICABILITY OF OTHER RESTRICTIONS.—Section 502 of the Freedom for Russia and Emerging Eurasian Democracies and

Open Markets Support Act of 1992 (22 U.S.C. 5852) shall not apply to any Cooperative Threat Reduction program.

**SEC. 1305. MODIFICATION OF AUTHORITY TO USE COOPERATIVE THREAT REDUCTION FUNDS OUTSIDE THE FORMER SOVIET UNION.**

Section 1308 of the National Defense Authorization Act for Fiscal Year 2004 (22 U.S.C. 5963) is amended— * * *

**SEC. 1306. NEW INITIATIVES FOR THE COOPERATIVE THREAT REDUCTION PROGRAM.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Department of Defense Cooperative Threat Reduction (CTR) Program should be strengthened and expanded, in part by developing new CTR initiatives;

(2) such new initiatives should—

(A) be well-coordinated with the Department of Energy, the Department of State, and any other relevant United States Government agency or department;

(B) include appropriate transparency and accountability mechanisms, and legal frameworks and agreements between the United States and CTR partner countries;

(C) reflect engagement with non-governmental experts on possible new options for the CTR Program;

(D) include work with the Russian Federation and other countries to establish strong CTR partnerships that, among other things—

(i) increase the role of scientists and government officials of CTR partner countries in designing CTR programs and projects; and

(ii) increase financial contributions and additional commitments to CTR programs and projects from Russia and other partner countries, as appropriate, as evidence that the programs and projects reflect national priorities and will be sustainable;

(E) include broader international cooperation and partnerships, and increased international contributions;

(F) incorporate a strong focus on national programs and sustainability, which includes actions to address concerns raised and recommendations made by the Government Accountability Office, in its report of February 2007 titled "Progress Made in Improving Security at Russian Nuclear Sites, but the Long-Term Sustainability of U.S. Funded Security Upgrades is Uncertain", which pertain to the Department of Defense;

(G) continue to focus on the development of CTR programs and projects that secure nuclear weapons; secure and eliminate chemical and biological weapons and weapons-related materials; and eliminate nuclear, chemical, and biological weapons-related delivery vehicles and infrastructure at the source; and

(H) include efforts to develop new CTR programs and projects in Russia and the former Soviet Union, and in countries and regions outside the former Soviet Union, as appropriate and in the interest of United States national security; and

(3) such new initiatives could include—

(A) programs and projects in Asia and the Middle East; and

(B) activities relating to the denuclearization of the Democratic People's Republic of Korea.

(b) NATIONAL ACADEMY OF SCIENCES STUDY.—

(1) STUDY.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall enter into an arrangement with the National Academy of Sciences under which the Academy shall carry out a study to analyze options for strengthening and expanding the CTR Program.

(2) MATTERS TO BE INCLUDED IN STUDY.—The Secretary shall provide for the study under paragraph (1) to include—

(A) an assessment of new CTR initiatives described in subsection (a); and

(B) an identification of options and recommendations for strengthening and expanding the CTR Program.

(3) SUBMISSION OF NATIONAL ACADEMY OF SCIENCES REPORT.—The National Academy of Sciences shall submit to Congress a report on the study under this subsection at the same time that such report is submitted to the Secretary of Defense pursuant to subsection (c).

(c) SECRETARY OF DEFENSE REPORT.—

(1) IN GENERAL.—Not later than 90 days after receipt of the report under subsection (b), the Secretary of Defense shall submit to Congress a report on new CTR initiatives. The report shall include—

(A) a summary of the results of the study carried out under subsection (b);

(B) an assessment by the Secretary of the study; and

(C) a statement of the actions, if any, to be undertaken by the Secretary to implement any recommendations in the study.

(2) FORM.—The report shall be in unclassified form but may include a classified annex if necessary.

(d) FUNDING.—Of the amounts appropriated pursuant to the authorization of appropriations in section 301(19) or otherwise made available for Cooperative Threat Reduction programs for fiscal year 2008, not more than $1,000,000 shall be obligated or expended to carry out this section.

**SEC. 1307. REPORT RELATING TO CHEMICAL WEAPONS DESTRUCTION AT SHCHUCH'YE, RUSSIA.**

(a) DEFINITION.—In this section, the terms "Shchuch'ye project" and "project" mean the Cooperative Threat Reduction Program chemical weapons destruction project located in the area of Shchuch'ye in the Russian Federation.

(b) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the Shchuch'ye project. The report shall include—

(1) a current and detailed cost estimate for completion of the project, to include costs that will be borne by the United States and Russia, respectively; and

(2) a specific strategic and operating plan for completion of the project, which includes—

(A) the Department's plans to ensure robust project management and oversight, including management and oversight with respect to the performance of any contractors;

(B) project quality assurance and sustainability measures;

(C) metrics for measuring project progress with a timetable for achieving goals, including initial systems integration and start-up testing; and

(D) a projected project completion date.

**SEC. 1308. NATIONAL ACADEMY OF SCIENCES STUDY OF PREVENTION OF PROLIFERATION OF BIOLOGICAL WEAPONS.**

(a) STUDY REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall enter into an arrangement with the National Academy of Sciences under which the Academy shall carry out a study to identify areas for cooperation with states other than states of the former Soviet Union under the Cooperative Threat Reduction Program of the Department of Defense in the prevention of proliferation of biological weapons.

(b) MATTERS TO BE INCLUDED IN STUDY.—The Secretary shall provide for the study under subsection (a) to include the following:

(1) An assessment of the capabilities and capacity of governments of developing countries to control the containment and use of dual-use technologies of potential interest to terrorist organizations or individuals with hostile intentions.

(2) An assessment of the approaches to cooperative threat reduction used by the states of the former Soviet Union that are of special relevance in preventing the proliferation of biological weapons in other areas of the world.

(3) A brief review of programs of the United States Government and other governments, international organizations, foundations, and other private sector entities that may contribute to the prevention of the proliferation of biological weapons.

(4) Recommendations on steps for integrating activities of the Cooperative Threat Reduction Program relating to biological weapons proliferation prevention with activities of other departments and agencies of the United States, as appropriate, in states outside of the former Soviet Union.

(c) SUBMISSION OF NATIONAL ACADEMY OF SCIENCES REPORT.—The National Academy of Sciences shall submit to Congress a report on the study under subsection (a) at the same time that such report is submitted to the Secretary of Defense pursuant to subsection (d).

(d) SECRETARY OF DEFENSE REPORT.—

(1) IN GENERAL.—Not later than 90 days after receipt of the report required by subsection (a), the Secretary shall submit to the Congress a report on the study carried out under subsection (a).

(2) MATTERS TO BE INCLUDED.—The report under paragraph (1) shall include the following:

(A) A summary of the results of the study carried out under subsection (a).

(B) An assessment by the Secretary of the study.

(C) A statement of the actions, if any, to be undertaken by the Secretary to implement any recommendations in the study.

(3) FORM.—The report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(e) FUNDING.—Of the amounts appropriated pursuant to the authorization of appropriations in section 301(19) or otherwise made available for Cooperative Threat Reduction programs for fiscal year 2008, not more than $1,000,000 may be obligated or expended to carry out this section.

* * * * * * *

## d. Cooperative Threat Reduction Authorization in Response to 9/11 Commission Recommendations, Fiscal Year 2008

**Partial text of Public Law 110–53 [Implementing Recommendations of the 9/11 Commission Act of 2007; H.R. 1], 121 Stat. 266, approved August 3, 2007**

AN ACT To provide for the implementation of the recommendations of the National Commission on Terrorist Attacks Upon the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Implementing Recommendations of the 9/11 Commission Act of 2007".

(b) * * *

* * * * * * *

### TITLE XVIII—PREVENTING WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM

**SEC. 1801.[1] FINDINGS.**

The 9/11 Commission has made the following recommendations:

(1)–(2) * * *

(3) SUPPORT THE COOPERATIVE THREAT REDUCTION PROGRAM.—The United States should expand, improve, increase resources for, and otherwise fully support the Cooperative Threat Reduction program.

* * * * * * *

### Subtitle A—Repeal and Modification of Limitations on Assistance for Prevention of WMD Proliferation and Terrorism

**SEC. 1811. REPEAL AND MODIFICATION OF LIMITATIONS ON ASSISTANCE FOR PREVENTION OF WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM.**

Consistent with the recommendations of the 9/11 Commission, Congress repeals or modifies the limitations on assistance for prevention of weapons of mass destruction proliferation and terrorism as follows:

(1) SOVIET NUCLEAR THREAT REDUCTION ACT OF 1991.—Subsections (b) and (c) of section 211 of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 22 U.S.C. 2551 note) are repealed.

(2) COOPERATIVE THREAT REDUCTION ACT OF 1993.—Section 1203(d) of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 22 U.S.C. 5952(d)) is repealed.

[1] 50 U.S.C. 2901.

(3) RUSSIAN CHEMICAL WEAPONS DESTRUCTION FACILITIES.—Section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 22 U.S.C. 5952 note) is repealed.

(4) AUTHORITY TO USE COOPERATIVE THREAT REDUCTION FUNDS OUTSIDE THE FORMER SOVIET UNION—MODIFICATION OF CERTIFICATION REQUIREMENT; CONGRESSIONAL NOTICE REQUIREMENT.—Section 1308 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 22 U.S.C. 5963) is amended— * * *

* * * * * * *

## Subtitle C—Assistance to Accelerate Programs to Prevent Weapons of Mass Destruction Proliferation and Terrorism

**SEC. 1831.[2] STATEMENT OF POLICY.**

It shall be the policy of the United States, consistent with the 9/11 Commission's recommendations, to eliminate any obstacles to timely obligating and executing the full amount of any appropriated funds for threat reduction and nonproliferation programs in order to accelerate and strengthen progress on preventing weapons of mass destruction (WMD) proliferation and terrorism. Such policy shall be implemented with concrete measures, such as those described in this title, including the removal and modification of statutory limits to executing funds, the expansion and strengthening of the Proliferation Security Initiative, the establishment of the Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism under subtitle D, and the establishment of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism under subtitle E. As a result, Congress intends thatany funds authorized to be appropriated to programs for preventing WMD proliferation and terrorism under this subtitle will be executed in a timely manner.

**SEC. 1832.[3] AUTHORIZATION OF APPROPRIATIONS FOR THE DEPARTMENT OF DEFENSE COOPERATIVE THREAT REDUCTION PROGRAM.**

(a) FISCAL YEAR 2008.—

(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated to the Department of Defense Cooperative Threat Reduction Program such sums as may be necessary for fiscal year 2008 for the following purposes:

(A) Chemical weapons destruction at Shchuch'ye, Russia.

(B) Biological weapons proliferation prevention.

(C) Acceleration, expansion, and strengthening of Cooperative Threat Reduction Program activities.

(2) LIMITATION.—The sums appropriated pursuant to paragraph (1) may not exceed the amounts authorized to be appropriated by any national defense authorization Act for fiscal

[2] 50 U.S.C. 2921.
[3] 50 U.S.C. 2922.

year 2008 (whether enacted before or after the date of the enactment of this Act) to the Department of Defense Cooperative Threat Reduction Program for such purposes.

(b) FUTURE YEARS.—It is the sense of Congress that in fiscal year 2008 and future fiscal years, the President should accelerate and expand funding for Cooperative Threat Reduction programs administered by the Department of Defense and such efforts should include, beginning upon enactment of this Act, encouraging additional commitments by the Russian Federation and other partner nations, as recommended by the 9/11 Commission.

**SEC. 1833.[4] AUTHORIZATION OF APPROPRIATIONS FOR THE DEPARTMENT OF ENERGY PROGRAMS TO PREVENT WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM.**

(a) IN GENERAL.—Subject to subsection (b), there are authorized to be appropriated to Department of Energy National Nuclear Security Administration Defense Nuclear Nonproliferation such sums as may be necessary for fiscal year 2008 to accelerate, expand, and strengthen the following programs to prevent weapons of mass destruction (WMD) proliferation and terrorism:

(1) The Global Threat Reduction Initiative.

(2) The Nonproliferation and International Security program.

(3) The International Materials Protection, Control and Accounting program.

(4) The Nonproliferation and Verification Research and Development program.

(b) LIMITATION.—The sums appropriated pursuant to subsection (a) may not exceed the amounts authorized to be appropriated by any national defense authorization Act for fiscal year 2008 (whether enacted before or after the date of the enactment of this Act) to Department of Energy National Nuclear Security Administration Defense Nuclear Nonproliferation for such purposes.

* * * * * * *

[4] 50 U.S.C. 2923.

## e. Cooperative Threat Reduction, Fiscal Year 2007

**Partial text of Public Law 109–364 [John Warner National Defense Authorization Act for Fiscal Year 2007; H.R. 5122], 120 Stat. 2083, approved October 17, 2006**

AN ACT To authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; FINDINGS.**

(a) SHORT TITLE.—This Act may be cited as the "John Warner National Defense Authorization Act for Fiscal Year 2007".

(b) * * *

* * * * * * *

### DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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### TITLE III—OPERATION AND MAINTENANCE

* * * * * * *

### Subtitle A—Authorization of Appropriations

**SEC. 301. OPERATION AND MAINTENANCE FUNDING.**

Funds are hereby authorized to be appropriated for fiscal year 2007 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1)–(17) * * *

(18) For Former Soviet Union Threat Reduction programs, $372,128,000.

(19) * * *

* * * * * * *

### TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION


Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
Sec. 1302. Funding allocations.
Sec. 1303. Extension of temporary authority to waive limitation on funding for chemical weapons destruction facility in Russia.
Sec. 1304. National Academy of Sciences study of prevention of proliferation of biological weapons.

**SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.**

(a) SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) FISCAL YEAR 2007 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term "fiscal year 2007 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

**SEC. 1302. FUNDING ALLOCATIONS.**

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the $372,128,000 authorized to be appropriated to the Department of Defense for fiscal year 2007 in section 301(19) for Cooperative Threat Reduction programs, the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $76,985,000.

(2) For nuclear weapons storage security in Russia, $87,100,000.

(3) For nuclear weapons transportation security in Russia, $33,000,000.

(4) For weapons of mass destruction proliferation prevention in the states of the former Soviet Union, $37,486,000.

(5) For biological weapons proliferation prevention in the former Soviet Union, $68,357,000.

(6) For chemical weapons destruction in Russia, $42,700,000.

(7) For defense and military contacts, $8,000,000.

(8) For activities designated as Other Assessments/Administrative Support, $18,500,000.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2007 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (8) of subsection (a) until 30 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2007 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may

obligate amounts appropriated for fiscal year 2007 for a purpose listed in any of the paragraphs in subsection (a) in excess of the specific amount authorized for that purpose.

(2) NOTICE-AND-WAIT REQUIRED.—An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) RESTRICTION.—The Secretary may not, under the authority provided in paragraph (1), obligate amounts for a purpose stated in any of paragraphs (6) through (8) of subsection (a) in excess of 125 percent of the specific amount authorized for such purpose.

**SEC. 1303. EXTENSION OF TEMPORARY AUTHORITY TO WAIVE LIMITATION ON FUNDING FOR CHEMICAL WEAPONS DESTRUCTION FACILITY IN RUSSIA.**

Section 1303 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2094; 22 U.S.C. 5952 note) is amended— * * *

**SEC. 1304. NATIONAL ACADEMY OF SCIENCES STUDY OF PREVENTION OF PROLIFERATION OF BIOLOGICAL WEAPONS.**

(a) STUDY REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall enter into an arrangement with the National Academy of Sciences under which the Academy shall carry out a study to identify areas for further cooperation with Russia and other states of the former Soviet Union under the Cooperative Threat Reduction (CTR) program of the Department of Defense in the specific area of prevention of proliferation biological weapons.

(b) MATTERS TO BE INCLUDED IN STUDY.—The Secretary shall provide for the study under subsection (a) to include the following:

(1) A brief review of any ongoing or previously completed United States Government program (whether conducted through the Cooperative Threat Reduction program or otherwise) in the area of prevention of proliferation of biological weapons.

(2) An identification of further cooperative work between the United States Government and foreign governments, including technical scientific cooperation, that could effectively be pursued in the area of prevention of proliferation of biological weapons and the objectives that such work would be designed to achieve.

(3) An identification of any obstacles to designing and implementing a nonproliferation program (whether conducted through the Cooperative Threat Reduction program or otherwise) that could successfully accomplish the objectives identified pursuant to paragraph (2), together with recommendations for overcoming such obstacles, including recommendations in

the area of coordination among relevant United States Government departments and agencies.

(c) REPORT.—

(1) SECRETARY OF DEFENSE REPORT.—Not later than December 31, 2007, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the study carried out under subsection (a).

(2) MATTERS TO BE INCUDED.[1]—The report under paragraph (1) shall incude the following:

(A) The results of the study carried out under subsection (a), including any report received from the National Academy of Sciences on such study.

(B) An assessment of the study by the Secretary.

(C) an action plan for implementing the recommendations from the study, if any, that the Secretary has decided to pursue.

(3) FORM OF SUBMITTAL.—The report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(d) FUNDING.—Of the amounts made available pursuant to the authorization of appropriations in section 301(19)[2] for Cooperative Threat Reduction programs, not more than $150,000 shall be available to carry out this section.

* * * * * * *

[1] As enrolled.

[2] Sec. 301(18) of this Act authorizes $372,128,000 for Former Soviet Union Threat Reduction programs. Sec. 301(19) authorizes $63,204,000 for Overseas Humanitarian Disaster and Civic Aid.

## f. Cooperative Threat Reduction, Fiscal Year 2006

**Partial text of Public Law 109–163 [National Defense Authorization Act for Fiscal Year 2006; H.R. 1815], 119 Stat. 3136, approved January 6, 2006**

AN ACT To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 2006".

* * * * * * *

### Subtitle A—Authorization of Appropriations

**SEC. 301. OPERATION AND MAINTENANCE FUNDING.**

Funds are hereby authorized to be appropriated for fiscal year 2006 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1)–(18) * * *

(19) For Cooperative Threat Reduction programs, $415,459,000.[1]

(20) * * *

* * * * * * *

[1] Title II of the Department of Defense Appropriations Act, 2006 (division A of Public Law 109–148; 119 Stat. 2687) provided the following:

"FORMER SOVIET UNION THREAT REDUCTION ACCOUNT

"For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, $415,549,000, to remain available until September 30, 2008: Provided, That of the amounts provided under this heading, $15,000,000 shall be available only to support the dismantling and disposal of nuclear submarines, submarine reactor components, and security enhancements for transport and storage of nuclear warheads in the Russian Far East.".

Subsequently, chapter 2 of title I of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234; 120 Stat. 422) provided the following:

"FORMER SOVIET UNION THREAT REDUCTION ACCOUNT

"For an additional amount for "Former Soviet Union Threat Reduction Account", $44,500,000: *Provided,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.".

# TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
Sec. 1302. Funding allocations.
Sec. 1303. Permanent waiver of restrictions on use of funds for threat reduction in states of the former Soviet Union.
Sec. 1304. Report on elimination of impediments to threat-reduction and nonproliferation programs in the former Soviet Union.
Sec. 1305. Repeal of requirement for annual Comptroller General assessment of annual Department of Defense report on activities and assistance under Cooperative Threat Reduction programs.

## SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a) SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) FISCAL YEAR 2006 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term "fiscal year 2006 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

## SEC. 1302. FUNDING ALLOCATIONS.

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the $415,549,000 authorized to be appropriated to the Department of Defense for fiscal year 2006 in section 301(19) for Cooperative Threat Reduction programs, the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $78,900,000.

(2) For nuclear weapons storage security in Russia, $74,100,000.

(3) For nuclear weapons transportation security in Russia, $30,000,000.

(4) For weapons of mass destruction proliferation prevention in the states of the former Soviet Union, $40,600,000.

(5) For biological weapons proliferation prevention in the former Soviet Union, $60,849,000.

(6) For chemical weapons destruction in Russia, $108,500,000.

(7) For defense and military contacts, $8,000,000.

(8) For activities designated as Other Assessments/Administrative Support, $14,600,000.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2006 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (8) of subsection (a) until 30 days after the date that the Secretary of Defense submits

to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2006 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2006 for a purpose listed in any of the paragraphs in subsection (a) in excess of the specific amount authorized for that purpose.

(2) An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts for a purpose stated in any of paragraphs (6) through (8) of subsection (a) in excess of 125 percent of the specific amount authorized for such purpose.

**SEC. 1303. PERMANENT WAIVER OF RESTRICTIONS ON USE OF FUNDS FOR THREAT REDUCTION IN STATES OF THE FORMER SOVIET UNION.**

Section 1306 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 22 U.S.C. 5952 note) is amended— * * *

**SEC. 1304.[2] REPORT ON ELIMINATION OF IMPEDIMENTS TO THREAT REDUCTION AND NONPROLIFERATION PROGRAMS IN THE FORMER SOVIET UNION.**

Not later than November 1, 2006, the President shall submit to Congress a report on impediments to the effective conduct of Cooperative Threat Reduction programs and related threat reduction and nonproliferation programs and activities in the states of the former Soviet Union. The report shall—

(1) identify the impediments to the rapid, efficient, and effective conduct of programs and activities of the Department of Defense, the Department of State, and the Department of Energy, including issues relating to access to sites, liability, and taxation; and

(2) describe the plans of the United States to overcome or ameliorate such impediments, including an identification and discussion of new models and approaches that might be used to develop new relationships with entities in the states of the

[2] In a memorandum dated May 26, 2006 (71 F.R. 36435; June 26, 2006), the President delegated his functions under sec. 1304 to the Secretary of State.

former Soviet Union capable of assisting in removing or ameliorating those impediments, and any congressional action that may be necessary for that purpose.

**SEC. 1305. REPEAL OF REQUIREMENT FOR ANNUAL COMPTROLLER GENERAL ASSESSMENT OF ANNUAL DEPARTMENT OF DEFENSE REPORT ON ACTIVITIES AND ASSISTANCE UNDER COOPERATIVE THREAT REDUCTION PROGRAMS.**

Section 1308 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–341; 22 U.S.C. 5959) is amended * * *

* * * * * * *

## g. Cooperative Threat Reduction, Fiscal Year 2005

**Partial text of Public Law 108–375 [Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005; H.R. 4200], 118 Stat. 1811, approved October 28, 2004; as amended by Public Law 109–364 [John Warner National Defense Authorization Act for Fiscal Year 2007; H.R. 5122], 120 Stat. 2083, approved October 17, 2006; and Public Law 110–181 [National Defense Authorization Act for Fiscal Year 2008; H.R. 4986], 122 Stat. 3, approved January 28, 2008**

AN ACT To authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005".

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### Subtitle A—Authorization of Appropriations

**SEC. 301. OPERATION AND MAINTENANCE FUNDING.**

Funds are hereby authorized to be appropriated for fiscal year 2005 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1)–(18) * * *

(19) For Cooperative Threat Reduction programs, $409,200,000.[1]

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[1] Title II of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 959) provided the following:

"FORMER SOVIET UNION THREAT REDUCTION ACCOUNT

"For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, $409,200,000, to remain available until September 30, 2007: *Provided*, That of the amounts provided under this heading, $15,000,000 shall be available only to support the dismantling and disposal of nuclear submarines, submarine reactor components, and security enhancements for transport and storage of nuclear warheads in the Russian Far East.".

Title VIII of Public Law 108–287 (118 Stat. 981) provided a partial rescission of previous appropriations:

"(RESCISSIONS)

"SEC. 8049. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

"* * *

Continued

(20) * * *

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## TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
Sec. 1302. Funding allocations.
* * *
Sec. 1304. Inclusion of descriptive summaries in annual Cooperative Threat Reduction reports and budget justification materials.

**SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.**

(a) SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) FISCAL YEAR 2005 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term "fiscal year 2005 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

**SEC. 1302. FUNDING ALLOCATIONS.**

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the $409,200,000 authorized to be appropriated to the Department of Defense for fiscal year 2005 in section 301(19) for Cooperative Threat Reduction programs, the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $58,522,000.

(2) For nuclear weapons storage security in Russia, $48,672,000.

(3) For nuclear weapons transportation security in Russia, $26,300,000.

(4) For weapons of mass destruction proliferation prevention in the states of the former Soviet Union, $40,030,000.

(5) For chemical weapons destruction in Russia, $158,400,000.

(6) For biological weapons proliferation prevention in the former Soviet Union, $54,959,000.

(7) For defense and military contacts, $8,000,000.

(8) For activities designated as Other Assessments/Administrative Support, $14,317,000.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2005 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (8) of subsection (a)

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"'Former Soviet Union Threat Reduction, 2003/2005', $50,000,000;
"* * *".

until 30 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2005 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2005 for a purpose listed in any of the paragraphs in subsection (a) in excess of the specific amount authorized for that purpose.

(2) An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts for a purpose stated in any of paragraphs (5) through (8) of subsection (a) in excess of 125 percent of the specific amount authorized for such purpose.

**SEC. 1303.**[2] * * * [Repealed—2008]

**SEC. 1304. INCLUSION OF DESCRIPTIVE SUMMARIES IN ANNUAL COOPERATIVE THREAT REDUCTION REPORTS AND BUDGET JUSTIFICATION MATERIALS.**

Section 1307 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2165; 22 U.S.C. 5952 note) is amended— * * *

* * * * * * *

[2] Sec. 1304(a)(4) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 413) repealed sec. 1303. It provided temporary authority to waive a limitation on funding for chemical weapons destruction contained in sec. 1305 of Public Law 106–65, which sec. 1304(a)(3) of Public 110–181 repealed.

Sec. 1303 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2432) had made earlier amendments to this section.

## h. Cooperative Threat Reduction, Fiscal Year 2004

**Partial text of Public Law 108–136 [National Defense Authorization Act for Fiscal Year 2004; H.R. 1588], 117 Stat. 1392, approved November 23, 2003; as amended by Public Law 110–53 [Implementing Recommendations of the 9/11 Commission Act of 2007; H.R. 1], 121 Stat. 266, approved August 3, 2007; and Public Law 110–181 [National Defense Authorization Act for Fiscal Year 2008; H.R. 4986], 122 Stat. 3, approved January 28, 2008**

AN ACT To authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

(a) SHORT TITLE.—This Act may be cited as the "National Defense Authorization Act for Fiscal Year 2004".

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### Subtitle A—Authorization of Appropriations

**SEC. 301. OPERATION AND MAINTENANCE FUNDING.**

Funds are hereby authorized to be appropriated for fiscal year 2004 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1)–(18) * * *

(19) For Cooperative Threat Reduction programs, $450,800,000.[1]

(20) * * *

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## TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
Sec. 1302. Funding allocations.
Sec. 1303. Limitation on use of funds until certain permits obtained.

[1] Title II of the Department of Defense Appropriations Act, 2004 (Public Law 108–87; 117 Stat. 1061) provides the following:

"FORMER SOVIET UNION THREAT REDUCTION

"For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, $450,800,000, to remain available until September 30, 2006: *Provided*, That of the amounts provided under this heading, $10,000,000 shall be available only to support the dismantling and disposal of nuclear submarines, submarine reactor components, and warheads in the Russian Far East.".

Sec. 1304. Limitation on use of funds for biological research in the former Soviet Union.
Sec. 1305. Requirement for on-site managers.
Sec. 1306. Temporary authority to waive limitation on funding for chemical weapons destruction facility in Russia.
Sec. 1307. Annual certifications on use of facilities being constructed for Cooperative Threat Reduction projects or activities.
Sec. 1308. Authority to use Cooperative Threat Reduction funds outside the former Soviet Union.

**SEC. 1301.[2] SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.**

(a) SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) FISCAL YEAR 2004 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term "fiscal year 2004 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

**SEC. 1302. FUNDING ALLOCATIONS.**

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the $450,800,000 authorized to be appropriated to the Department of Defense for fiscal year 2004 in section 301(19) for Cooperative Threat Reduction programs, the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $57,600,000.

(2) For strategic nuclear arms elimination in Ukraine, $3,900,000.

(3) For nuclear weapons transportation security in Russia, $23,200,000.

(4) For nuclear weapons storage security in Russia, $48,000,000.

(5) For activities designated as Other Assessments/Administrative Support, $13,100,000.

(6) For defense and military contacts, $11,100,000.

(7) For chemical weapons destruction in Russia, $200,300,000.

(8) For biological weapons proliferation prevention in the former Soviet Union, $54,200,000.

(9) For weapons of mass destruction proliferation prevention in the states of the former Soviet Union, $39,400,000.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2004 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (9) of subsection (a) until 30 days after the date that the Secretary of Defense submits

[2] 22 U.S.C. 5960 note.

to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2004 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2004 for a purpose listed in any of the paragraphs in subsection (a) in excess of the specific amount authorized for that purpose.

(2) An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts for a purpose stated in any of paragraphs (5) through (8) of subsection (a) in excess of 125 percent of the specific amount authorized for such purpose.

**SEC. 1303.[3] LIMITATION ON USE OF FUNDS UNTIL CERTAIN PERMITS OBTAINED.**

(a) IN GENERAL.—The Secretary of Defense shall seek to obtain all the permits required to complete each phase of construction of a project under Cooperative Threat Reduction programs before obligating significant amounts of funding for that phase of the project.

(b) USE OF FUNDS FOR NEW CONSTRUCTION PROJECTS.—Except as provided in subsection (e), with respect to a new construction project to be carried out by the Department of Defense under Cooperative Threat Reduction programs, not more than 40 percent of the total costs of the project may be obligated from Cooperative Threat Reduction funds for any fiscal year until the Secretary of Defense—

(1) determines the number and type of permits that may be required for the lifetime of the project in the proposed location or locations of the project; and

(2) obtains from the State in which the project is to be located any permits that may be required to begin construction.

(c) IDENTIFICATION OF REQUIRED PERMITS FOR ONGOING INCOMPLETE CONSTRUCTION PROJECTS.—With respect to an incomplete construction project carried out by the Department of Defense under Cooperative Threat Reduction programs, the Secretary shall identify all the permits that are required for the lifetime of the project not later than 120 days after the date of the enactment of this Act.

[3] 22 U.S.C. 5960.

(d) USE OF FUNDS FOR CERTAIN INCOMPLETE CONSTRUCTION PROJECTS.—Except as provided in subsection (e), with respect to an incomplete construction project carried out by the Department of Defense under Cooperative Threat Reduction programs for which construction has not yet commenced as of the date of the enactment of this Act, not more than 40 percent of the total costs of the project may be obligated from Cooperative Threat Reduction funds for any fiscal year until the Secretary obtains from the State in which the project is located the permits required to commence construction on the project.

(e) EXCEPTION TO LIMITATIONS ON USE OF FUNDS.—The limitation in subsection (b) or (d) on the obligation of funds for a construction project otherwise covered by such subsection shall not apply with respect to the obligation of funds for a particular project if the Secretary—

(1) determines that it is necessary in the national interest to obligate funds for such project; and

(2) submits to the congressional defense committees a notification of the intent to obligate funds for such project, together with a complete discussion of the justification for doing so.

(f) DEFINITIONS.—In this section, with respect to a project under Cooperative Threat Reduction programs:

(1) INCOMPLETE CONSTRUCTION PROJECT.—The term "incomplete construction project" means a construction project for which funds have been obligated or expended before the date of the enactment of this Act and which is not completed as of such date.

(2) NEW CONSTRUCTION PROJECT.—The term "new construction project" means a construction project for which no funds have been obligated or expended as of the date of the enactment of this Act.

(3) PERMIT.—The term "permit" means any local or national permit for development, general construction, environmental, land use, or other purposes that is required for purposes of major construction in a state of the former Soviet Union in which the construction project is being or is proposed to be carried out.

**SEC. 1304. LIMITATION ON USE OF FUNDS FOR BIOLOGICAL RESEARCH IN THE FORMER SOVIET UNION.**

(a) LIMITATION ON THE USE OF FUNDS.—Except as provided in subsection (b), none of the funds authorized to be appropriated pursuant to section 1302 for biological weapons proliferation prevention may be obligated to begin any collaborative biodefense research or bioattack early warning and preparedness project under a Cooperative Threat Reduction program at a facility in a state of the former Soviet Union until the Secretary of Defense notifies Congress that the Secretary—

(1) has determined, through access to the facility, that no offensive biological weapons research prohibited by international law is being conducted at the facility; and

(2) has determined that appropriate security measures have begun to be, or will be, put in place at the facility to prevent theft of dangerous pathogens from the facility.

(b) AVAILABILITY OF FUNDS FOR DETERMINATIONS.—Of the funds referred to in subsection (a) that are available for projects referred to in that subsection, up to 25 percent of such funds may be obligated and expended for purposes of making determinations referred to in that subsection.

(c) FACILITY DEFINED.—In this section, the term "facility" means the buildings and areas at a location in which Cooperative Threat Reduction program work is actually being conducted.

**SEC. 1305.[4] REQUIREMENT FOR ON-SITE MANAGERS.**

(a) ON-SITE MANAGER REQUIREMENT.—Before obligating any Cooperative Threat Reduction funds for a project described in subsection (b), the Secretary of Defense shall appoint one on-site manager for that project. The manager shall be appointed from among employees of the Federal Government.

(b) PROJECTS COVERED.—Subsection (a) applies to a project—

(1) to be located in a state of the former Soviet Union;

(2) which involves dismantlement, destruction, or storage facilities, or construction of a facility; and

(3) with respect to which the total contribution by the Department of Defense is expected to exceed $50,000,000.

(c) DUTIES OF ON-SITE MANAGER.—The on-site manager appointed under subsection (a) shall—

(1) develop, in cooperation with representatives from governments of countries participating in the project, a list of those steps or activities critical to achieving the project's disarmament or nonproliferation goals;

(2) establish a schedule for completing those steps or activities;

(3) meet with all participants to seek assurances that those steps or activities are being completed on schedule; and

(4) suspend United States participation in a project when a non-United States participant fails to complete a scheduled step or activity on time, unless directed by the Secretary of Defense to resume United States participation.

(d) AUTHORITY TO MANAGE MORE THAN ONE PROJECT.—(1) Subject to paragraph (2), an employee of the Federal Government may serve as on-site manager for more than one project, including projects at different locations.

(2) If such an employee serves as on-site manager for more than one project in a fiscal year, the total cost of the projects for that fiscal year may not exceed $150,000,000.

(e) STEPS OR ACTIVITIES.—Steps or activities referred to in subsection (c)(1) are those activities that, if not completed, will prevent a project from achieving its disarmament or nonproliferation goals, including, at a minimum, the following:

(1) Identification and acquisition of permits (as defined in section 1303).

(2) Verification that the items, substances, or capabilities to be dismantled, secured, or otherwise modified are available for dismantlement, securing, or modification.

(3) Timely provision of financial, personnel, management, transportation, and other resources.

[4] 22 U.S.C. 5961.

(f) NOTIFICATION TO CONGRESS.—In any case in which the Secretary of Defense directs an on-site manager to resume United States participation in a project under subsection (c)(4), the Secretary shall concurrently notify Congress of such direction.

(g) EFFECTIVE DATE.—This section shall take effect six months after the date of the enactment of this Act.

**SEC. 1306. TEMPORARY AUTHORITY TO WAIVE LIMITATION ON FUNDING FOR CHEMICAL WEAPONS DESTRUCTION FACILITY IN RUSSIA.**

(a) TEMPORARY AUTHORITY.—The conditions described in section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 22 U.S.C. 5952 note) shall not apply to the obligation and expenditure of funds available for obligation during fiscal year 2004 for the planning, design, or construction of a chemical weapons destruction facility in Russia if the President submits to Congress a written certification that includes—

(1) a statement as to why the waiver of the conditions is important to the national security interests of the United States;

(2) a full and complete justification for the waiver of the conditions; and

(3) a plan to promote a full and accurate disclosure by Russia regarding the size, content, status, and location of its chemical weapons stockpile.

(b) EXPIRATION.—The authority in subsection (a) shall expire on September 30, 2004.

**SEC. 1307.[5] ANNUAL CERTIFICATIONS ON USE OF FACILITIES BEING CONSTRUCTED FOR COOPERATIVE THREAT REDUCTION PROJECTS OR ACTIVITIES.**

(a) CERTIFICATION ON USE OF FACILITIES BEING CONSTRUCTED.—Not later than the first Monday of February each year, the Secretary of Defense shall submit to the congressional defense committees a certification for each facility for a Cooperative Threat Reduction project or activity for which construction occurred during the preceding fiscal year on matters as follows:

(1) Whether or not such facility will be used for its intended purpose by the government of the state of the former Soviet Union in which the facility is constructed.

(2) Whether or not the government of such state remains committed to the use of such facility for its intended purpose.

(3) Whether those actions needed to ensure security at the facility, including secure transportation of any materials, substances, or weapons to, from, or within the facility, have been taken.

(b) APPLICABILITY.—Subsection (a) shall apply to—

(1) any facility the construction of which commences on or after the date of the enactment of this Act; and

(2) any facility the construction of which is ongoing as of that date.

[5] 22 U.S.C. 5962.

**SEC. 1308.[6] AUTHORITY TO USE COOPERATIVE THREAT REDUCTION FUNDS OUTSIDE THE FORMER SOVIET UNION.**

(a)[7] AUTHORITY.—Subject to the provisions of this section, the Secretary of Defense may[8] obligate and expend Cooperative Threat Reduction funds for a fiscal year, and any Cooperative Threat Reduction funds for a fiscal year before such fiscal year that remain available for obligation, for a proliferation threat reduction project or activity outside the states of the former Soviet Union if the Secretary of Defense, with the concurrence of the Secretary of State,[8] determines each of the following:

(1) That such project or activity will—

(A)(i) assist the United States in the resolution of a critical emerging proliferation threat; or

(ii) permit the United States to take advantage of opportunities to achieve long-standing nonproliferation goals; and

(B) be completed in a short period of time.

(2) That the Department of Defense is the entity of the Federal Government that is most capable of carrying out such project or activity.

(b) SCOPE OF AUTHORITY.—The authority in subsection (a) to obligate and expend funds for a project or activity includes authority to provide equipment, goods, and services for such project or activity utilizing such funds, but does not include authority to provide cash directly to such project or activity.

(c)[9] LIMITATION ON AVAILABILITY OF FUNDS.—

(1) The Secretary of Defense may not obligate funds for a project or activity under the authority in subsection (a) of this section until the Secretary of Defense, with the concurrence of

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[6] 22 U.S.C. 5963.

[7] In a memorandum of October 20, 2004, for the Secretary of State (69 F.R. 63917; November 3, 2004), the President certified under this subsection that Albania was committed to the courses of action enumerated in sec. 1203(d) of the Cooperative Threat Reduction Act of 2003, as sec. 1308(e) of this Act requires. This certification was made in connection with a related memorandum of October 20, 2004, for the Secretary of State (69 F.R. 63037; October 28, 2004), in which the President made a determination under sec. 1308 of this Act that justified the obligation and expenditure of Cooperative Threat Reduction funds in Albania for fiscal year 2004.

[8] Sec. 1811(4)(A)(i) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53; 121 Stat. 493) struck out "the President may" and inserted in lieu thereof "the Secretary of Defense may". Sec. 1811(4)(A)(ii) of that Act struck out "if the President" and inserted in lieu thereof "if the Secretary of Defense, with the concurrence of the Secretary of State,". Subsequently, sec. 1305(1) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 413) struck out "Subject to" and all that followed through "the following:" from the text of subsec. (a), and replaced it with exactly the same text.

[9] Sec. 1305(2) of Public Law 110–181 struck out the original subsec. (c) and redesignated subsecs. (d) and (e) as subsecs. (c) and (d), respectively. The former subsec. (c) read as follows:

"(c) LIMITATION ON TOTAL AMOUNT OF OBLIGATION.—The amount that may be obligated in a fiscal year under the authority in subsection (a) may not exceed $50,000,000.".

Sec. 1305(3) of Public Law 110–181 restated entirely the former subsec. (d), newly redesignated as subsec. (c). Sec. 1811(4) of Public Law 110–53 had previously made several changes to the former subsec. (d). The former subsection, as amended, read as follows:

"(d) LIMITATION ON AVAILABILITY OF FUNDS.—(1) The Secretary of Defense y not obligate funds for a project or activity under the authority in subsection (a) until the Secretary of Defense, with the concurrence of the Secretary of State, makes each determination specified in that subsection with respect to such project or activity.

"(2) Not later than 15 days prior to obligating funds under the authority in subsection (a) for a project or activity, the Secretary of Defense shall notify the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives and the Committee on Armed Services and the Committee on Foreign Relations of the Senate in writing of the determinations made under paragraph (1) with respect to such project or activity, together with—

"(A) a justification for such determinations; and

"(B) a description of the scope and duration of such project or activity.".

the Secretary of State, makes each determination specified in that subsection with respect to such project or activity.

(2) Not later than 10 days after obligating funds under the authority in subsection (a) of this section for a project or activity, the Secretary of Defense and the Secretary of State shall notify Congress in writing of the determinations made under paragraph (1) with respect to such project or activity, together with—

(A) a justification for such determinations; and

(B) a description of the scope and duration of such project or activity.

(3) In the case of a situation that threatens human life or safety or where a delay would severely undermine the national security of the United States, notification under paragraph (2) shall be made not later than 10 days after obligating funds under the authority in subsection (a) for a project or activity.

(d)[9] ADDITIONAL LIMITATIONS AND REQUIREMENTS.—Except as otherwise provided in subsections (a) and (b), the exercise of the authority in subsection (a) shall be subject to any requirement or limitation under another provision of law as follows:

(1) Any requirement for prior notice or other reports to Congress on the use of Cooperative Threat Reduction funds or on Cooperative Threat Reduction projects or activities.

(2) Any limitation on the obligation or expenditure of Cooperative Threat Reduction funds.

(3) Any limitation on Cooperative Threat Reduction projects or activities.

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## TITLE XXXVI—NUCLEAR SECURITY INITIATIVE

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**SEC. 3601.[10] SHORT TITLE.**

This title may be cited as the "Nuclear Security Initiative Act of 2003".

### Subtitle A—Administration and Oversight of Threat Reduction and Nonproliferation Programs

**SEC. 3611. MANAGEMENT ASSESSMENT OF DEPARTMENT OF DEFENSE AND DEPARTMENT OF ENERGY THREAT REDUCTION AND NONPROLIFERATION PROGRAMS.**

(a) GAO ASSESSMENT REQUIRED.—The Comptroller General shall carry out an assessment of the management of the threat reduction and nonproliferation programs of the Department of Defense and the Department of Energy. The matters assessed shall include—

(1) the effectiveness of the overall strategy used for managing such programs;

(2) the basis used to allocate the missions of such programs among the executive departments and agencies;

(3) the criteria used to assess the effectiveness of such programs;

[10] 22 U.S.C. 5951 note.

(4) the strategy and process used to establish priorities for activities carried out under such programs, including the analysis of risks and benefits used in determining how best to allocate the funds made available for such programs;

(5) the mechanisms used to coordinate the activities carried out under such programs by the executive departments and agencies so as to ensure efficient execution and avoid duplication of effort; and

(6) the management controls used in carrying out such programs and the effect of such controls on the execution of such programs.

(b) CONSIDERATIONS.—In carrying out the assessment required by subsection (a), the Comptroller General shall take into account—

(1) the national security interests of the United States; and

(2) the need for accountability in expenditure of funds by the United States.

(c) REPORT—Not later than May 1, 2004, the Comptroller General shall submit a report on the assessment required by subsection (a) to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate.

(d) DEFINITIONS.—In this section:

(1) The term "threat reduction and nonproliferation programs of the Department of Defense and the Department of Energy" means—

(A) the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note); and

(B) any programs for which funds are made available under the defense nuclear nonproliferation account of the Department of Energy.

(2) The term "management controls" means any accounting, oversight, or other measure intended to ensure that programs are executed consistent with—

(A) programmatic objectives as stated in budget justification materials submitted to Congress (as submitted with the budget of the President under section 1105(a) of title 31, United States Code); and

(B) any restrictions related to such objectives as are imposed by law.

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## i. Cooperative Threat Reduction, Fiscal Year 2003

**Partial text of Public Law 107–314 [Bob Stump National Defense Authorization Act for Fiscal Year 2003; H.R. 4546], 116 Stat. 2458, approved December 2, 2002; as amended by Public Law 109–163 [National Defense Authorization Act for Fiscal Year 2006; H.R. 1815], 119 Stat. 3136, approved January 6, 2006**

AN ACT To authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; FINDINGS.**

(a) SHORT TITLE.—This Act may be cited as the "Bob Stump National Defense Authorization Act for Fiscal Year 2003".

(b) FINDINGS. * * *

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## DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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## TITLE III—OPERATION AND MAINTENANCE

* * * * * * *

### Subtitle A—Authorization of Appropriations

**SEC. 301. OPERATION AND MAINTENANCE FUNDING.**

Funds are hereby authorized to be appropriated for fiscal year 2003 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1)–(22) * * *

(23) For Cooperative Threat Reduction programs, $416,700,000.[1]

[1] Title II of the Department of Defense Appropriations Act, 2003 (Public Law 107–248; 116 Stat. 1526) provided the following:

"FORMER SOVIET UNION THREAT REDUCTION

"For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, $416,700,000, to remain available until September 30, 2005: *Provided*, That of the amounts provided under this heading, $10,000,000 shall be available only

Continued

(24)–(25) * * *

* * * * * * *

## TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
Sec. 1302. Funding allocations.
Sec. 1303. Prohibition against use of funds until submission of reports.
Sec. 1304. Report on use of revenue generated by activities carried out under Cooperative Threat Reduction programs.
Sec. 1305. Prohibition against use of funds for second wing of fissile material storage facility.
Sec. 1306. Limited waiver of restrictions on use of funds for threat reduction in states of the former Soviet Union.

### SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a)[2] SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) FISCAL YEAR 2003 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term "fiscal year 2003 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

### SEC. 1302. FUNDING ALLOCATIONS.

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the $416,700,000 authorized to be appropriated to the Department of Defense for fiscal year 2003 in section 301(23) for Cooperative Threat Reduction programs, the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $70,500,000.

(2) For strategic nuclear arms elimination in Ukraine, $6,500,000.

(3) For nuclear weapons transportation security in Russia, $19,700,000.

(4) For nuclear weapons storage security in Russia, $40,000,000.

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to support the dismantling and disposal of nuclear submarines and submarine reactor components in the Russian Far East.".

Title VIII of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 981) provided a partial rescission of previous appropriations:

"(RESCISSIONS)

"SEC. 8049. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

"* * *

"'Former Soviet Union Threat Reduction, 2003/2005', $50,000,000;

"* * *".

[2] 22 U.S.C. 5952 note.

(5) For activities designated as Other Assessments/Administrative Support, $14,700,000.

(6) For defense and military contacts, $18,900,000.

(7) For weapons of mass destruction infrastructure elimination activities in Kazakhstan, $9,000,000.

(8) For weapons of mass destruction infrastructure elimination activities in Ukraine, $8,800,000.

(9) For chemical weapons destruction in Russia, $50,000,000.

(10) For biological weapons proliferation prevention in the former Soviet Union, $55,000,000.

(11) For weapons of mass destruction proliferation prevention in the States of the former Soviet Union, $40,000,000.

(b) ADDITIONAL FUNDS AUTHORIZED FOR CERTAIN PURPOSES.—Of the funds authorized to be appropriated to the Department of Defense for fiscal year 2003 in section 301(23) for Cooperative Threat Reduction programs, $83,600,000 may be obligated for any of the purposes specified in paragraphs (1) through (4) and (9) of subsection (a) in addition to the amounts specifically authorized in such paragraphs.

(c) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2003 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (11) of subsection (a) until 30 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2003 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(d) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2003 for a purpose listed in any of the paragraphs in subsection (a) in excess of the specific amount authorized for that purpose.

(2) An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts for a purpose stated in any of paragraphs (5) through (10) of subsection (a) in excess of 125 percent of the specific amount authorized for such purpose.

(4) In this section, the term "specific amount authorized" means, with respect to a purpose listed in any paragraph in subsection (a)—

(A) the amount specifically authorized for that purpose in subsection (a), plus

(B) in the case of a purpose listed in paragraph (1), (2), (3), (4), or (9) of subsection (a), any amount obligated under subsection (b) for that purpose.

**SEC. 1303. PROHIBITION AGAINST USE OF FUNDS UNTIL SUBMISSION OF REPORTS.**

Not more than 50 percent of fiscal year 2003 Cooperative Threat Reduction funds may be obligated or expended until 30 days after the date of the submission of—

(1) the report required to be submitted in fiscal year 2002 under section 1308(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–341); and

(2) the update for the multiyear plan required to be submitted for fiscal year 2001 under section 1205 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 22 U.S.C. 5952 note).

**SEC. 1304. REPORT ON USE OF REVENUE GENERATED BY ACTIVITIES CARRIED OUT UNDER COOPERATIVE THREAT REDUCTION PROGRAMS.**

(a) ADDITIONAL REPORT REQUIREMENTS.—Section 1308(c) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–341) is amended * * *

(b) * * *

**SEC. 1305.[3] PROHIBITION AGAINST USE OF FUNDS FOR SECOND WING OF FISSILE MATERIAL STORAGE FACILITY.**

No funds authorized to be appropriated for Cooperative Threat Reduction programs for any fiscal year may be used for the design, planning, or construction of a second wing for a storage facility for Russian fissile material.

**SEC. 1306.[3,4] LIMITED WAIVER OF RESTRICTIONS ON USE OF FUNDS FOR THREAT REDUCTION IN STATES OF THE FORMER SOVIET UNION.**

(a)[5] AUTHORITY TO WAIVE RESTRICTIONS AND ELIGIBILITY REQUIREMENTS.—If the President submits the certification and report described in subsection (b) with respect to an independent state of the former Soviet Union for a fiscal year—

(1) the restrictions in subsection (d) of section 1203 of the Cooperative Threat Reduction Act of 1993 (22 U.S.C. 5952) shall cease to apply, and funds may be obligated and expended under that section for assistance, to that state during that fiscal year; and

(2) funds may be obligated and expended during that fiscal year under section 502 of the FREEDOM Support Act (22

[3] 22 U.S.C. 5952 note.

[4] In a memorandum for the Secretary of State dated December 15, 2005 (71 F.R. 1467; January 9, 2006), the President assigned the functions granted to the President under sec. 1306 to the Secretary of State.

[5] In a memorandum dated May 26, 2006 (71 F.R. 36435; June 26, 2006), the President delegated to the Secretary of State the President's functions under sec. 1306(a) and (b) as they relate to sec. 1308(d) of the National Defense Authorization Act for Fiscal Year 1994, as amended (Public Law 103–160; 22 U.S.C. 5963(d)). Sec. 1308(d) deals with certain limitations on the use of Cooperative Threat Reduction funds outside the former Soviet Union.

U.S.C. 5852) for assistance or other programs and activitiesfor that state even if that state has not met one or more of the requirements for eligibility under paragraphs (1) through (4) of that section.

(b)[5,6] CERTIFICATION AND REPORT.—(1) The certification and report referred to in subsection (a) are a written certification submitted by the President to Congress that the waiver of the restrictions and requirements described in paragraphs (1) and (2) of that subsection during such fiscal year is important to the national security interests of the United States, together with a report containing the following:

(A) A description of the activity or activities that prevent the President from certifying that the state is committed to the matters set forth in the provisions of law specified in paragraphs (1) and (2) of subsection (a) in such fiscal year.

(B) An explanation of why the waiver is important to the national security interests of the United States.

(C) A description of the strategy, plan, or policy of the President for promoting the commitment of the state to, and compliance by the state with, such matters, notwithstanding the waiver.

(2) The matter included in the report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(c)[7] ADMINISTRATION OF RESTRICTIONS ON ASSISTANCE.—Subsection (d) of section 1203 of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 107 Stat. 1778; 22 U.S.C. 5952) is amended— * * *

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## DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

## TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

* * * * * * *

[6] In memoranda dated January 10, 2003 (68 F.R. 2419; January 17, 2003), November 7, 2003 (68 F.R. 65383; November 20, 2003), and December 6, 2004 (69 F.R. 74933; December 14, 2004) for the Secretary of State, the President certified under sec. 1306 of this Act that a waiver of the requirements of sec. 1203(d) of the Cooperative Threat Reduction Act of 2003 (22 U.S.C. 5952(d)) and sec. 502 of the FREEDOM Support Act (22 U.S.C. 5852) with regard to the Russian Federation for fiscal years 2003, 2004, and 2005 was justified. In memoranda dated December 30, 2003 (69 F.R. 2479; January 16, 2004), and December 14, 2004 (70 F.R. 1; January 3, 2005), for the Secretary of State, the President made the same certification with regard to the Republic of Uzbekistan for fiscal years 2004 and 2005.

[7] Sec. 1303 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3136) struck out subsecs. (c) and (d) of this section and redesignated subsec. (e) as subsec. (c). Subsecs. (c) and (d) read as follows:

"(c) FISCAL YEARS COVERED.—The authority under subsection (a) shall apply only with respect to fiscal years 2003, 2004, and 2005.

"(d) EXPIRATION OF AUTHORITY.—The authority under subsection (a) shall expire on September 30, 2005.".

## Subtitle C—Proliferation Matters

**SEC. 3151.[4] TRANSFER TO NATIONAL NUCLEAR SECURITY ADMINISTRATION OF DEPARTMENT OF DEFENSE'S COOPERATIVE THREAT REDUCTION PROGRAM RELATING TO ELIMINATION OF WEAPONS GRADE PLUTONIUM PRODUCTION IN RUSSIA.**

(a) TRANSFER OF PROGRAM.—There are hereby transferred to the Administrator for Nuclear Security the following:

(1) The program, within the Cooperative Threat Reduction program of the Department of Defense, relating to the elimination of weapons grade plutonium production in Russia.

(2) All functions, powers, duties, and activities of that program performed before the date of the enactment of this Act by the Department of Defense.

(b) TRANSFER OF ASSETS.—(1) Notwithstanding any restriction or limitation in law on the availability of Cooperative Threat Reduction funds specified in paragraph (2), so much of the property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the program transferred by subsection (a) are transferred to the Administrator for use in connection with the program transferred.

(2) The Cooperative Threat Reduction funds specified in this paragraph are the following:

(A) Fiscal year 2002 Cooperative Threat Reduction funds, as specified in section 1301(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1254; 22 U.S.C. 5952 note).

(B) Fiscal year 2001 Cooperative Threat Reduction funds, as specified in section 1301(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–339; 22 U.S.C. 5959 note).

(C) Fiscal year 2000 Cooperative Threat Reduction funds, as specified in section 1301(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 792; 22 U.S.C. 5952 note).

(c) AVAILABILITY OF TRANSFERRED FUNDS.—(1) Notwithstanding any restriction or limitation in law on the availability of Cooperative Threat Reduction funds specified in subsection (b)(2), the Cooperative Threat Reduction funds transferred under subsection (b) for the program referred to in subsection (a) shall be available for activities as follows:

(A) To design and construct, refurbish, or both, fossil fuel energy plants in Russia that provide alternative sources of energy to the energy plants in Russia that produce weapons grade plutonium.

(B) To carry out limited safety upgrades of not more than three energy plants in Russia that produce weapons grade plutonium, provided that such upgrades do not extend the life of those plants.

(2) Amounts available under paragraph (1) for activities referred to in that paragraph shall remain available for obligation for three fiscal years.

(d) LIMITATION.—(1) Of the amounts authorized to be appropriated by this title or any other Act for the program referred to in subsection (a), the Administrator for Nuclear Security may not obligate any funds for construction, or obligate or expend more than $100,000,000 for that program, until 30 days after the later of—

(A) the date on which the Administrator submits to the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate, a copy of an agreement or agreements entered into between the United States Government and the Government of the Russian Federation to shut down the three plutonium-producing reactors in Russia as specified under paragraph (2); and

(B) the date on which the Administrator submits to the committees specified in subparagraph (A) a report on a plan to achieve international participation in the program referred to in subsection (a), including cost sharing.

(2) The agreement (or agreements) under paragraph (1)(A) shall contain—

(A) a commitment to shut down the three plutonium-producing reactors;

(B) the date on which each such reactor will be shut down;

(C) a schedule and milestones for each such reactor to complete the shutdown of such reactor by the date specified under subparagraph (B);

(D) a schedule and milestones for refurbishment or construction of fossil fuel energy plants to be undertaken by the Government of the Russian Federation in support of the program;

(E) an arrangement for access to sites and facilities necessary to meet such schedules and milestones;

(F) an arrangement for audit and examination procedures in order to evaluate progress in meeting such schedules and milestones; and

(G) any cost sharing arrangements between the United States Government and the Government of the Russian Federation in undertaking activities under such agreement (or agreements).

(e)[8] INTERNATIONAL PARTICIPATION IN PROGRAM.—(1) In order to achieve international participation in the program referred to in subsection (a), the Secretary of Energy may, in consultation with the Secretary of State, enter into one or more agreements with any person, foreign government, or other international organization that the Secretary considers appropriate for the contribution of funds by such person, government, or organization for purposes of the program.

(2) Notwithstanding section 3302 of title 31, United States Code, and subject to paragraphs (3) and (4), the Secretary may retain and utilize any amounts contributed by a person, government, or organization under an agreement under paragraph (1) for purposes of

[8] Sec. 3135 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2170) added subsec. (e).

the program without further appropriation and without fiscal year limitation.

(3) The Secretary may not utilize under paragraph (2) any amount contributed under an agreement under paragraph (1) until 30 days after the date on which the Secretary notifies the congressional defense committees of the intent to utilize such amount, including the source of such amount and the proposed purpose for which such amount will be utilized.

(4) If any amount contributed under paragraph (1) has not been utilized within five years of receipt under that paragraph, the Secretary shall return such amount to the person, government, or organization contributing such amount under that paragraph.

(5) Not later than 30 days after the receipt of any amount contributed under paragraph (1), the Secretary shall submit to the congressional defense committees a notice of the receipt of such amount.

(6) Not later than October 31 each year, the Secretary shall submit to the congressional defense committees a report on the receipt and utilization of amounts under this subsection during the preceding fiscal year. Each report for a fiscal year shall set forth—

(A) a statement of any amounts received under this subsection, including the source of each such amount; and

(B) a statement of any amounts utilized under this subsection, including the purpose for which such amounts were utilized.

(7) The authority of the Secretary to accept and utilize amounts under this subsection shall expire on December 31, 2011.

* * * * * * *

## j. Cooperative Threat Reduction, Fiscal Year 2002

**Partial text of Public Law 107–107 [National Defense Authorization Act for Fiscal Year 2002; S. 1438], 115 Stat. 1012, approved December 28, 2001**

AN ACT To authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 2002".

* * * * * * *

### Subtitle A—Authorization of Appropriations

**SEC. 301. OPERATION AND MAINTENANCE FUNDING.**

(a) Funds are hereby authorized to be appropriated for fiscal year 2002 for the useof the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1)–(22) * * *

(23) For Cooperative Threat Reduction programs, $403,000,000.[1]

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[1] Title IX of the Department of Defense Appropriations Act, 2002 (Division A of the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002; Public Law 107–117; 115 Stat. 2289) provided:

"FORMER SOVIET UNION THREAT REDUCTION

"For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, $403,000,000, to remain available until September 30, 2004: *Provided*, That of the amounts provided under this heading, $12,750,000 shall be available only to support the dismantling and disposal of nuclear submarines and submarine reactor components in the Russian Far East.

"* * *".

Sec. 8054 of Division A of Public Law 107–117 (115 Stat. 2259) provided a rescission as follows:

"(RESCISSIONS)

"SEC. 8054. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

"'Former Soviet Union Threat Reduction, 2000/2002', $32,000,000;

"* * *".

Chapter 3 of the Emergency Supplemental Act, 2002 (Division B of Public Law 107–117; 115 Stat. 2299) further provided the following:

Continued

(24)–(25) * * *

* * * * * * *

## TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
Sec. 1302. Funding allocations.
Sec. 1303. Limitation on use of funds until submission of reports.
Sec. 1304. Requirement to consider use of revenue generated by activities carried out under Cooperative Threat Reduction programs.
Sec. 1305. Prohibition against use of funds for second wing of fissile material storage facility.
Sec. 1306. Prohibition against use of funds for certain construction activities.
Sec. 1307. Reports on activities and assistance under Cooperative Threat Reduction programs.
Sec. 1308. Chemical weapons destruction.
Sec. 1309. Additional matter in annual report on activities and assistance under Cooperative Threat Reduction programs.

### SEC. 1301.[2] SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a) SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) FISCAL YEAR 2002 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term "fiscal year 2002 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

### SEC. 1302. FUNDING ALLOCATIONS.

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the $403,000,000 authorized to be appropriated to the Department of Defense for fiscal year 2002 in section 301(23) for Cooperative Threat Reduction programs, not more than the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $133,405,000.

(2) For strategic nuclear arms elimination in Ukraine, $51,500,000.

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"DEFENSE EMERGENCY RESPONSE FUND

"(INCLUDING TRANSFER OF FUNDS)

"For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, for 'Defense Emergency Response Fund', $3,395,600,000, to remain available until expended, to be obligated from amounts made available in Public Law 107–38, as follows:

"(1)–(6) * * *

"*Provided further*, That from unobligated balances under the heading 'Former Soviet Union Threat Reduction', $30,000,000 shall be transferred to 'Department of State, Nonproliferation, Anti-terrorism, Demining, and Related Programs' only for the purpose of supporting expansion of the Biological Weapons Redirect and International Science and Technology Centers programs, to prevent former Soviet biological weapons experts from emigrating to proliferant states and to reconfigure former Soviet biological weapons production facilities for peaceful uses.".

[2] 22 U.S.C. 5952 note.

(3) For nuclear weapons transportation security in Russia, $9,500,000.

(4) For nuclear weapons storage security in Russia, $56,000,000.

(5) For biological weapons proliferation prevention activities in the former Soviet Union, $17,000,000.

(6) For activities designated as Other Assessments/Administrative Support, $13,221,000.

(7) For defense and military contacts, $18,650,000.

(8) For chemical weapons destruction in Russia, $50,000,000.

(9) For weapons of mass destruction infrastructure elimination activities in Kazakhstan, $6,000,000.

(10) For weapons of mass destruction infrastructure elimination activities in Ukraine, $6,024,000.

(11) For activities to assist Russia in the elimination of plutonium production reactors, $41,700,000.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2002 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (11) of subsection (a) until 30 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2002 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2002 for a purpose listed in any of the paragraphs in subsection (a) in excess of the amount specifically authorized for such purpose.

(2) An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts for the purposes stated in paragraph (6), (7), or (11) of subsection (a) in excess of 115 percent of the amount specifically authorized for such purposes.

(d) MODIFICATION OF AUTHORITY TO VARY INDIVIDUAL AMOUNTS OF FY 2001 FUNDS.—Section 1302(c)(3) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–340) is amended by striking "(4),".

**SEC. 1303. LIMITATION ON USE OF FUNDS UNTIL SUBMISSION OF REPORTS.**

Not more than 50 percent of fiscal year 2002 Cooperative Threat Reduction funds may be obligated or expended until 30 days after the date of the submission of—

(1) the report required to be submitted in fiscal year 2001 under section 1308(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–341); and

(2) the multiyear plan required to be submitted for fiscal year 2001 under section 1308(h) of such Act.

**SEC. 1304.[3] REQUIREMENT TO CONSIDER USE OF REVENUE GENERATED BY ACTIVITIES CARRIED OUT UNDER COOPERATIVE THREAT REDUCTION PROGRAMS.**

The Secretary of Defense shall consider the use of revenue generated by activities carried out under Cooperative Threat Reduction programs in negotiating and executing contracts with Russia to carry out such programs.

**SEC. 1305.[3] PROHIBITION AGAINST USE OF FUNDS FOR SECOND WING OF FISSILE MATERIAL STORAGE FACILITY.**

(a) PROHIBITION.—No fiscal year 2002 Cooperative Threat Reduction funds and no funds authorized to be appropriated for Cooperative Threat Reduction programs for any prior fiscal year may be used for the construction of a second wing for a storage facility for Russian fissile material.

(b) CONFORMING AMENDMENT.—Section 1304 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–341) is amended to read as follows: * * *

**SEC. 1306. PROHIBITION AGAINST USE OF FUNDS FOR CERTAIN CONSTRUCTION ACTIVITIES.**

No fiscal year 2002 Cooperative Threat Reduction funds may be used for construction activities carried out under Russia's program to eliminate the production of weapons grade plutonium.

**SEC. 1307. REPORTS ON ACTIVITIES AND ASSISTANCE UNDER COOPERATIVE THREAT REDUCTION PROGRAMS.**

Section 1308(c)(4) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–342) is amended— * * *

**SEC. 1308. CHEMICAL WEAPONS DESTRUCTION.**

Section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 794; 22 U.S.C. 5952 note) is amended by inserting before the period at the end the following: * * *

**SEC. 1309. ADDITIONAL MATTER IN ANNUAL REPORT ON ACTIVITIES AND ASSISTANCE UNDER COOPERATIVE THREAT REDUCTION PROGRAMS.**

Section 1308(c) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–341) (as amended by section 1308) is

[3] 22 U.S.C. 5952 note.

further amended by adding at the end of the following new paragraph: * * *

## k. Cooperative Threat Reduction, Fiscal Year 2001

**Partial text of Public Law 106–398 [National Defense Authorization Act, Fiscal Year 2001; H.R. 5408, enacted by reference in H.R. 4205], 114 Stat. 1654, approved October 30, 2000; as amended by Public Law 107–107 [National Defense Authorization Act for Fiscal Year 2002; S. 1438], 115 Stat. 1012, approved December 28, 2001; Public Law 107–314 [Bob Stump National Defense Authorization Act for Fiscal Year 2003; H.R. 4546], 116 Stat. 2458, approved December 2, 2002; and Public Law 109–163 [National Defense Authorization Act for Fiscal Year 2006; H.R. 1815], 119 Stat. 3136, approved January 6, 2006**

AN ACT To authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. ENACTMENT OF FISCAL YEAR 2001 NATIONAL DEFENSE AUTHORIZATION ACT.**

The provisions of H.R. 5408 of the 106th Congress, as introduced on October 6, 2000, are hereby enacted into law.

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## APPENDIX—H.R. 5408

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**SECTION 1. SHORT TITLE; FINDINGS.**

(a) SHORT TITLE.—This Act may be cited as the "Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001".

(b) * * *

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## Subtitle A—Authorization of Appropriations

**SEC. 301. OPERATION AND MAINTENANCE FUNDING.**

Funds are hereby authorized to be appropriated for fiscal year 2001 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1)–(22) * * *

(23) For Cooperative Threat Reduction programs, $443,400,000.[1]

[1] Title II of the Department of Defense Appropriations Act, 2001 (Public Law 106–259; 114 Stat. 663) provided the following:

"FORMER SOVIET UNION THREAT REDUCTION

"For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for

(24)–(25) * * *

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## TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
Sec. 1302. Funding allocations.
Sec. 1303. Prohibition on use of funds for elimination of conventional weapons.
Sec. 1304. Limitations on use of funds for fissile material storage facility.
Sec. 1305. Limitation on use of funds to support warhead dismantlement processing.
Sec. 1306. Agreement on nuclear weapons storage sites.
Sec. 1307. Limitation on use of funds for construction of fossil fuel energy plants; report.
Sec. 1308. Reports on activities and assistance under Cooperative Threat Reduction programs.
Sec. 1309. Russian chemical weapons elimination.
Sec. 1310. Limitation on use of funds for elimination of weapons grade plutonium program.
Sec. 1311. Report on audits of Cooperative Threat Reduction programs.

### SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a) SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) FISCAL YEAR 2001 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term "fiscal year 2001 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

### SEC. 1302. FUNDING ALLOCATIONS.

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the $443,400,000 authorized to be appropriated to the Department of Defense for fiscal year 2001 in section 301(23) for Cooperative Threat Reduction programs, not more than the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $177,800,000.

(2) For strategic nuclear arms elimination in Ukraine, $29,100,000.

(3) For activities to support warhead dismantlement processing in Russia, $9,300,000.

(4) For weapons transportation security in Russia, $14,000,000.

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programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, $443,400,000, to remain available until September 30, 2003: *Provided*, that of the amounts provided under this heading, $25,000,000 shall be available only to support the dismantling and disposal of nuclear submarines and submarine reactor components in the Russian Far East.".

(5) For planning, design, and construction of a storage facility for Russian fissile material, $57,400,000.

(6) For weapons storage security in Russia, $89,700,000.

(7) For development of a cooperative program with the Government of Russia to eliminate the production of weapons grade plutonium at Russian reactors, $32,100,000.

(8) For biological weapons proliferation prevention activities in the former Soviet Union, $12,000,000.

(9) For activities designated as Other Assessments/Administrative Support, $13,000,000.

(10) For defense and military contacts, $9,000,000.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2001 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (10) of subsection (a) until 30 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2001 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2001 for a purpose listed in any of the paragraphs in subsection (a) in excess of the amount specifically authorized for such purpose.

(2) An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts for the purposes stated in any of paragraphs[2] (5), (7), (9), or (10) of subsection (a) in excess of 115 percent of the amount specifically authorized for such purposes.

**SEC. 1303. PROHIBITION ON USE OF FUNDS FOR ELIMINATION OF CONVENTIONAL WEAPONS.**

No fiscal year 2001 Cooperative Threat Reduction funds, and no funds appropriated for Cooperative Threat Reduction programs for any other fiscal year, may be obligated or expended for elimination of conventional weapons or the delivery vehicles primarily intended to deliver such weapons.

[2] Sec. 1302(d) of the National Defense Authorization Act for Fiscal Year 2002 (title XIII of division A of Public Law 107–107; 115 Stat. 1012) struck out "(4)," at this point.

**SEC. 1304.[3] LIMITATION ON USE OF FUNDS FOR FISSILE MATERIAL STORAGE FACILITY.**

Out of funds authorized to be appropriated for Cooperative Threat Reduction programs for fiscal year 2001 or any other fiscal year, not more than $412,600,000 may be used for planning, design, or construction of the first wing for the storage facility for Russian fissile material referred to in section 1302(a)(5) other than planning, design, or construction to improve security at such first wing.

**SEC. 1305. LIMITATION ON USE OF FUNDS TO SUPPORT WARHEAD DISMANTLEMENT PROCESSING.**

No fiscal year 2001 Cooperative Threat Reduction funds may be used for activities to support warhead dismantlement processing in Russia until 15 days after the date that the Secretary of Defense submits to Congress notification that the United States has reached an agreement with Russia, which shall provide for appropriate transparency measures, regarding assistance by the United States with respect to such processing.

**SEC. 1306. AGREEMENT ON NUCLEAR WEAPONS STORAGE SITES.**

The Secretary of Defense shall seek to enter into an agreement with Russia regarding procedures to allow the United States appropriate access to nuclear weapons storage sites for which assistance under Cooperative Threat Reduction programs is provided.

**SEC. 1307. LIMITATION ON USE OF FUNDS FOR CONSTRUCTION OF FOSSIL FUEL ENERGY PLANTS; REPORT.**

(a) IN GENERAL.—No fiscal year 2001 Cooperative Threat Reduction funds may be used for the construction of a fossil fuel energy plant intended to provide power to local communities that already receive power from nuclear energy plants that produce plutonium.

(b) REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall submit to Congress a report detailing options for assisting Russia in the development of alternative energy sources to the three plutonium production reactors remaining in operation in Russia. The report shall include—

(1) an assessment of the costs of building fossil fuel plants in Russia to replace the existing plutonium production reactors; and

(2) an identification of funding sources, other than Cooperative Threat Reduction funds, that could possibly be used for the construction of such plants in the event that the option to

[3] 22 U.S.C. 5952 note. Sec. 1305(b) of the National Defense Authorization Act for Fiscal Year 2002 (title XIII of division A of Public Law 107–107; 115 Stat. 1012) replaced this section in its entirety with a newly drafted section. The former sec. 1304 read as follows:

**"SEC. 1304. LIMITATIONS ON USE OF FUNDS FOR FISSILE MATERIAL STORAGE FACILITY.**

"(a) LIMITATIONS.—No fiscal year 2001 Cooperative Threat Reduction funds may be used—

"(1) for construction of a second wing for the storage facility for Russian fissile material referred to in section 1302(a)(5); or

"(2) for design or planning with respect to such facility until 15 days after the date that the Secretary of Defense submits to Congress notification that Russia and the United States have signed a written transparency agreement that provides for verification that material stored at the facility is of weapons origin.

"(b) ESTABLISHMENT OF FUNDING CAP FOR FIRST WING OF STORAGE FACILITY.—Out of funds authorized to be appropriated for Cooperative Threat Reduction programs for fiscal year 2001 or any other fiscal year, not more than $412,600,000 may be used for planning, design, or construction of the first wing for the storage facility for Russian fissile material referred to in section 1302(a)(5).".

use fossil fuel energy is chosen as part of a plan to shut down Russia's nuclear plutonium production reactors at Seversk and Zelenogorsk.

**SEC. 1308.[4] REPORTS ON ACTIVITIES AND ASSISTANCE UNDER COOPERATIVE THREAT REDUCTION PROGRAMS.**

(a) ANNUAL REPORT.—In any year in which the budget of the President under section 1105 of title 31, United States Code, for the fiscal year beginning in such year requests funds for the Department of Defense for assistance or activities under Cooperative Threat Reduction programs with the states of the former Soviet Union, the Secretary of Defense shall submit to Congress a report on activities and assistance during the preceding fiscal year under Cooperative Threat Reduction programs setting forth the matters in subsection (c).

(b) DEADLINE FOR REPORT.—The report under subsection (a) shall be submitted not later than the first Monday in February of a year.

(c) MATTERS TO BE INCLUDED.—The report under subsection (a) in a year shall set forth the following:

(1) An estimate of the total amount that will be required to be expended by the United States in order to achieve the objectives of the Cooperative Threat Reduction programs.

(2) A five-year plan setting forth the amount of funds and other resources proposed to be provided by the United States for Cooperative Threat Reduction programs over the term of the plan, including the purpose for which such funds and resources will be used, and to provide guidance for the preparation of annual budget submissions with respect to Cooperative Threat Reduction programs.

(3) A description of the Cooperative Threat Reduction activities carried out during the fiscal year ending in the year preceding the year of the report, including—

(A) the amounts notified, obligated, and expended for such activities and the purposes for which such amounts were notified, obligated, and expended for such fiscal year and cumulatively for Cooperative Threat Reduction programs;

(B) a description of the participation, if any, of each department and agency of the United States Government in such activities;

(C) a description of such activities, including the forms of assistance provided;

(D) a description of the United States private sector participation in the portion of such activities that were supported by the obligation and expenditure of funds for Cooperative Threat Reduction programs; and

(E) such other information as the Secretary of Defense considers appropriate to inform Congress fully of the operation of Cooperative Threat Reduction programs and activities, including with respect to proposed demilitarization or conversion projects, information on the progress toward demilitarization of facilities and the conversion of the demilitarized facilities to civilian activities.

[4] 22 U.S.C. 5959.

(4) A description of the means (including program management, audits, examinations, and other means) used[5] by the United States during the fiscal year ending in the year preceding the year of the report to ensure that assistance provided under Cooperative Threat Reduction programs is fully accounted for, that such assistance is being used for its intended purpose, and that such assistance is being used efficiently and effectively[5], including—

(A) if such assistance consisted of equipment, a description of the current location of such equipment and the current condition of such equipment;

(B) if such assistance consisted of contracts or other services, a description of the status of such contracts or services and the methods used to ensure that such contracts and services are being used for their intended purpose;

(C) a determination whether the assistance described in subparagraphs (A) and (B) has been used for its intended purpose and an assessment of whether the assistance being provided is being used effectively and efficiently[6]; and

(D) a description of the[7] efforts planned to be carried out during the fiscal year beginning in the year of the report to ensure that Cooperative Threat Reduction assistance provided during such fiscal year is fully accounted for and is used for its intended purpose.

(5) A current description of the tactical nuclear weapons arsenal of Russia, including—

(A) an estimate of the current types, numbers, yields, viability, locations, and deployment status of the nuclear warheads in that arsenal;

(B) an assessment of the strategic relevance of such warheads;

(C) an assessment of the current and projected threat of theft, sale, or unauthorized use of such warheads; and

(D) a summary of past, current, and planned United States efforts to work cooperatively with Russia to account for, secure, and reduce Russia's stockpile of tactical nuclear warheads and associated fissile materials.

(6)[8] A description of the amount of the financial commitment from the international community, and from Russia, for the chemical weapons destruction facility located at Shchuch'ye,

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[5] Sec. 1307(1)(A) of the National Defense Authorization Act for Fiscal Year 2002 (title XIII of division A of Public Law 107–107; 115 Stat. 1012) struck out "audits, examinations, and other efforts, such as on-site inspections, conducted" and inserted in lieu thereof "means (including program management, audits, examinations, and other means) used", and sec. 1307(1)(B) of that Act struck out "and that such assistance is being used for its intended purpose" and inserted in lieu thereof ", that such assistance is being used for its intended purpose, and that such assistance is being used efficiently and effectively".

[6] Sec. 1307(2) of the National Defense Authorization Act for Fiscal Year 2002 (title XIII of division A of Public Law 107–107; 115 Stat. 1012) inserted "and an assessment of whether the assistance being provided is being used effectively and efficiently".

[7] Sec. 1307(3) of the National Defense Authorization Act for Fiscal Year 2002 (title XIII of division A of Public Law 107–107; 115 Stat. 1012) struck out "audits, examinations, and other" at this point.

[8] Sec. 1309 of the National Defense Authorization Act for Fiscal Year 2002 (title XIII of division A of Public Law 107–107; 115 Stat. 1012) added para. (6).

Russia, for the fiscal year beginning in the year in which the report is submitted.

(6)[9] To the maximum extent practicable, a description of how revenue generated by activities carried out under Cooperative Threat Reduction programs in recipient States is being utilized, monitored, and accounted for.

(7)[9] A description of the defense and military activities carried out under Cooperative Threat Reduction programs during the fiscal year ending in the year preceding the year of the report, including—

(A) the amounts obligated or expended for such activities;

(B) the purposes, goals, and objectives for which such amounts were obligated and expended;

(C) a description of the activities carried out, including the forms of assistance provided, and the justification for each form of assistance provided;

(D) the success of each activity, including the goals and objectives achieved for each;

(E) a description of participation by private sector entities in the United States in carrying out such activities, and the participation of any other Federal department or agency in such activities; and

(F) any other information that the Secretary considers relevant to provide a complete description of the operation and success of activities carried out under Cooperative Threat Reduction programs.

(d) INPUT OF DCI.—The Director of Central Intelligence shall submit to the Secretary of Defense the views of the Director on any matters covered by subsection (c)(5) in a report under subsection (a). Such views shall be included in such report as a classified annex to such report.

(f)[10] FIRST REPORT.—The first report submitted under subsection (a) shall be submitted in 2001.

(g) REPEAL OF SUPERSEDED REPORTING REQUIREMENTS.—(1) The following provisions of law are repealed:

(A) Section 1207 of the Cooperative Threat Reduction Act of 1994 (title XII of Public Law 103–160; 107 Stat. 1782; 22 U.S.C. 5956), relating to semiannual reports on Cooperative Threat Reduction.

(B) Section 1203 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2882), relating to a report accounting for United States assistance for Cooperative Threat Reduction.

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[9] Sec. 1304(a) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (title XIII of division A of Public Law 107–314; 116 Stat. 2458) added paras. (6) and (7). Sec. 1304(b) of that Act (22 U.S.C. 5959 note) stated that new paras. (6) and (7) would apply beginning with the report submitted under sec. 1308(a) in 2004.

Sec. 1309 of the National Defense Authorization Act for Fiscal Year 2002 (title XIII of division A of Public Law 107–107; 115 Stat. 1012) had earlier added a para. (6), resulting in two paragraphs designated "(6)".

[10] Sec. 1305 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3136) struck out subsec. (e) from this section. Subsec. (e) had read as follows: "(e) COMPTROLLER GENERAL ASSESSMENT.—Not later than 90 days after the date on which a report is submitted to Congress under subsection (a), the Comptroller General shall submit to Congress a report setting forth the Comptroller General's assessment of the information described in paragraphs (2) and (4) of subsection (c).".

(C) Section 1206 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 22 U.S.C. 5955 note), relating to accounting for United States assistance for Cooperative Threat Reduction.

(D) Section 1307 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 795), relating to a limitation on use of funds for Cooperative Threat Reduction pending submittal of a multiyear plan.

(2) Effective on the date the Secretary of Defense submits to Congress an updated version of the multiyear plan for fiscal year 2001 as described in subsection (h), section 1205 of the National Defense Authorization Act for Fiscal Year 1995 (108 Stat. 2883; 10 U.S.C. 5952 note), relating to multiyear planning and Allied support for Cooperative Threat Reduction, is repealed.

(3) Section 1312 of the National Defense Authorization Act for Fiscal Year 2000 (113 Stat. 796; 22 U.S.C. 5955 note), relating to Russian nonstrategic nuclear arms, is amended—

(A) by striking "(a) SENSE OF CONGRESS.—"; and

(B) by striking subsections (b) and (c).

(h) LIMITATION ON USE OF FUNDS UNTIL SUBMISSION OF MULTIYEAR PLAN.—Not more than 10 percent of fiscal year 2001 Cooperative Threat Reduction funds may be obligated or expended until the Secretary of Defense submits to Congress an updated version of the multiyear plan for fiscal year 2001 required to be submitted under section 1205 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 22 U.S.C. 5952 note).

(i) REPORT ON RUSSIAN NONSTRATEGIC NUCLEAR ARMS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the following regarding Russia's arsenal of tactical nuclear warheads:

(1) Estimates regarding current types, numbers, yields, viability, locations, and deployment status of the warheads.

(2) An assessment of the strategic relevance of the warheads.

(3) An assessment of the current and projected threat of theft, sale, or unauthorized use of the warheads.

(4) A summary of past, current, and planned United States efforts to work cooperatively with Russia to account for, secure, and reduce Russia's stockpile of tactical nuclear warheads and associated fissile material.

**SEC. 1309. RUSSIAN CHEMICAL WEAPONS ELIMINATION.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that the international community should, when practicable, assist Russia in eliminating its chemical weapons stockpile in accordance with Russia's obligations under the Chemical Weapons Convention, and that the level of such assistance should be based on—

(1) full and accurate disclosure by Russia of the size of its existing chemical weapons stockpile;

(2) a demonstrated annual commitment by Russia to allocate at least $25,000,000 to chemical weapons elimination;

(3) development by Russia of a practical plan for destroying its stockpile of nerve agents;

(4) enactment of a law by Russia that provides for the elimination of all nerve agents at a single site; and

(5) an agreement by Russia to destroy its chemical weapons production facilities at Volgograd and Novocheboksark.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report that identifies—

(1) the amount spent by Russia for chemical weapons elimination during fiscal year 2000;

(2) the specific assistance being provided to Russia by the international community for the safe storage and elimination of Russia's stockpile of nerve agents, including those nerve agents located at the Shchuch'ye depot;

(3) the countries providing the assistance identified in paragraph (2); and

(4) the value of the assistance that the international community has already provided and has committed to provide in future years for the purpose described in paragraph (2).

(c) CHEMICAL WEAPONS CONVENTION DEFINED.—In this section, the term "Chemical Weapons Convention" means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993.

**SEC. 1310. LIMITATION ON USE OF FUNDS FOR ELIMINATION OF WEAPONS GRADE PLUTONIUM PROGRAM.**

Of the amounts authorized to be appropriated by this Act for fiscal year 2001 for the Elimination of Weapons Grade Plutonium Program, not more than 50 percent of such amounts may be obligated or expended for the program in fiscal year 2001 until 30 days after the date on which the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a report on an agreement between the United States Government and the Government of the Russian Federation regarding a new option selected for the shut down or conversion of the reactors of the Russian Federation that produce weapons grade plutonium, including—

(1) the new date on which such reactors will cease production of weapons grade plutonium under such agreement by reason of the shut down or conversion of such reactors; and

(2) any cost-sharing arrangements between the United States Government and the Government of the Russian Federation in undertaking activities under such agreement.

**SEC. 1311. REPORT ON AUDITS OF COOPERATIVE THREAT REDUCTION PROGRAMS.**

Not later than March 31, 2001, the Comptroller General shall submit to Congress a report examining the procedures and mechanisms with respect to audits by the Department of Defense of the use of funds for Cooperative Threat Reduction programs. The report shall examine the following:

(1) Whether the audits being conducted by the Department of Defense are producing necessary information regarding

whether assistance under such programs, including equipment provided and services furnished, is being used as intended.

(2) Whether the audit procedures of the Department of Defense are adequate, including whether random samplings are used.

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## l. Cooperative Threat Reduction, Fiscal Year 2000

**Partial text of Public Law 106–65 [National Defense Authorization Act for Fiscal Year 2000; S. 1059], 113 Stat. 512, approved October 5, 1999; as amended by Public Law 106–398 [Floyd D. Spence National Defense Authorization Act for Fiscal Year 2000; H.R. 4205], 114 Stat. 1654, approved October 30, 2000; Public Law 107–107 [National Defense Authorization Act for Fiscal Year 2002; S. 1438], 115 Stat. 1012, approved December 28, 2001; Public Law 110–53 [Implementing Recommendations of the 9/11 Commission Act of 2007; H.R. 1], 121 Stat. 266, approved August 3, 2007; and Public Law 110–181 [National Defense Authorization Act for Fiscal Year 2008; H.R. 4986], 122 Stat. 3, approved January 28, 2008**

AN ACT To authorize appropriations for fiscal year 2000 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 2000".

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### DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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### TITLE III—OPERATION AND MAINTENANCE

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### Subtitle A—Authorization of Appropriations

**SEC. 301. OPERATION AND MAINTENANCE FUNDING.**

Funds are hereby authorized to be appropriated for fiscal year 2000 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1)–(22) * * *

(23) For Cooperative Threat Reduction programs, $475,500,000.[1]

[1] Sec. 8054 of Division A of Public Law 107–117 (115 Stat. 2259) provided a rescission as follows:

"(RESCISSIONS)

"SEC. 8054. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

"'Former Soviet Union Threat Reduction, 2000/2002', $32,000,000;

"* * *".

(24)–(25) * * *

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## TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
Sec. 1302. Funding allocations.
Sec. 1303. Prohibition on use of funds for specified purposes.
Sec. 1304. Limitations on use of funds for fissile material storage facility.
Sec. 1305. [Repealed—2008]
Sec. 1306. Limitation on use of funds until submission of report.
Sec. 1307. [Repealed—2000]
Sec. 1308. Requirement to submit report.
Sec. 1309. Report on Expanded Threat Reduction Initiative.
Sec. 1310. Limitation on use of funds until submission of certification.
Sec. 1311. Period covered by annual report on accounting for United States assistance under Cooperative Threat Reduction programs.
Sec. 1312. Russian nonstrategic nuclear arms.

### SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a)[2] SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b)[2] FISCAL YEAR 2000 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term "fiscal year 2000 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

### SEC. 1302. FUNDING ALLOCATIONS.

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the $475,500,000 authorized to be appropriated to the Department of Defense for fiscal year 2000 in section 301(23) for Cooperative Threat Reduction programs, not more than the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $177,300,000.

(2) For strategic nuclear arms elimination in Ukraine, $41,800,000.

(3) For activities to support warhead dismantlement processing in Russia, $9,300,000.

(4) For security enhancements at chemical weapons storage sites in Russia, $20,000,000.

(5) For weapons transportation security in Russia, $15,200,000.

(6) For planning, design, and construction of a storage facility for Russian fissile material, $64,500,000.

(7) For weapons storage security in Russia, $99,000,000.

[2] 22 U.S.C. 5952 note.

(8) For development of a cooperative program with the Government of Russia to eliminate the production of weapons grade plutonium at Russian reactors, $32,300,000.

(9) For biological weapons proliferation prevention activities in Russia, $12,000,000.

(10) For activities designated as Other Assessments/Administrative Support, $1,800,000.

(11) For defense and military contacts, $2,300,000.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2000 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (11) of subsection (a) until 30 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2000 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title.

(c) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2000 for a purpose listed in any of the paragraphs in subsection (a) in excess of the amount specifically authorized for such purpose.

(2) An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts for the purposes stated in any of paragraphs (4) through (6), (8), (10), or (11) of subsection (a) in excess of 115 percent of the amount specifically authorized for such purposes.

**SEC. 1303.[2] PROHIBITION ON USE OF FUNDS FOR SPECIFIED PURPOSES.**

(a) IN GENERAL.—No fiscal year 2000 Cooperative Threat Reduction funds, and no funds appropriated for Cooperative Threat Reduction programs after the date of the enactment of this Act, may be obligated or expended for any of the following purposes:

(1) Conducting with Russia any peacekeeping exercise or other peacekeeping-related activity.

(2) Provision of housing.

(3) Provision of assistance to promote environmental restoration.

(4) Provision of assistance to promote job retraining.

(b) LIMITATION WITH RESPECT TO DEFENSE CONVERSION ASSISTANCE.—None of the funds appropriated pursuant to the authorization of appropriations in section 301 of this Act, and no funds appropriated to the Department of Defense in any other Act enacted after the date of the enactment of this Act, may be obligated or expended for the provision of assistance to Russia or any other state of the former Soviet Union to promote defense conversion.

(c) LIMITATION WITH RESPECT TO CONVENTIONAL WEAPONS.—No fiscal year 2000 Cooperative Threat Reduction funds may be obligated or expended for elimination of conventional weapons or the delivery vehicles primarily intended to deliver such weapons.

**SEC. 1304.[2] LIMITATIONS ON USE OF FUNDS FOR FISSILE MATERIAL STORAGE FACILITY.**

(a) LIMITATIONS ON USE OF FISCAL YEAR 2000 FUNDS.—No fiscal year 2000 Cooperative Threat Reduction funds may be used—

(1) for construction of a second wing for the storage facility for Russian fissile material referred to in section 1302(a)(6); or

(2) for design or planning with respect to such facility until 15 days after the date that the Secretary of Defense submits to Congress notification that Russia and the United States have signed a verifiable written transparency agreement that ensures that material stored at the facility is of weapons origin.

(b) LIMITATION ON CONSTRUCTION.—No funds authorized to be appropriated for Cooperative Threat Reduction programs may be used for construction of the storage facility referred to in subsection (a) until the Secretary of Defense submits to Congress the following:

(1) A certification that additional capacity is necessary at such facility for storage of Russian weapons-origin fissile material.

(2) A detailed cost estimate for a second wing for the facility.

(3) A certification that Russia and the United States have signed a verifiable written transparency agreement that ensures that material stored at the facility is of weapons origin.

**SEC. 1305.[3]** * * * [Repealed—2008]

**SEC. 1306. LIMITATION ON USE OF FUNDS UNTIL SUBMISSION OF REPORT.**

Not more than 50 percent of the fiscal year 2000 Cooperative Threat Reduction funds may be obligated or expended until the Secretary of Defense submits to Congress a report describing—

(1) with respect to each purpose listed in section 1302, whether the Department of Defense is the appropriate executive agency to carry out Cooperative Threat Reduction programs for such purpose, and if so, why; and

(2) for any purpose that the Secretary determines is not appropriately carried out by the Department of Defense, a plan

[3] Sec. 1811(3) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53; 121 Stat. 492) repealed this section, which prohibited the use of funds for chemical weapons destruction unless the Secretary of Defense certified that Russia had met certain requirements. For the text of the former sec. 1305 and accompanying notes, see *Legislation on Foreign Relations Through 2005*, Vol. II–B, pp. 89–90. Subsequently, sec. 1304(a)(3) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 412) contained an identical provision to repeal this section.

for migrating responsibility for carrying out such purpose to the appropriate agency.

**SEC. 1307.**[4] * * * [Repealed—2000]

**SEC. 1308. REQUIREMENT TO SUBMIT REPORT.**

Not later than December 31, 1999, the Secretary of Defense shall submit to Congress a report including—

(1) an explanation of the strategy of the Department of Defense for encouraging States of the former Soviet Union that receive funds through Cooperative Threat Reduction programs to contribute financially to the threat reduction effort;

(2) a prioritization of the projects carried out by the Department of Defense under Cooperative Threat Reduction programs;

(3) an identification of any limitations that the United States has imposed or will seek to impose, either unilaterally or through negotiations with recipient States, on the level of assistance provided by the United States for each of such projects; and

(4) an identification of the amount of international financial assistance provided for Cooperative Threat Reduction programs by other States.

**SEC. 1309. REPORT ON EXPANDED THREAT REDUCTION INITIATIVE.**

Not later than March 31, 2000, the President shall submit to Congress a report on the Expanded Threat Reduction Initiative. Such report shall include a description of the plans for ensuring effective coordination between executive agencies in carrying out the Expanded Threat Reduction Initiative to minimize duplication of efforts.

**SEC. 1310. LIMITATION ON USE OF FUNDS UNTIL SUBMISSION OF CERTIFICATION.**

No funds appropriated for fiscal year 1999 for Cooperative Threat Reduction programs and remaining available for obligation or expenditure may be obligated or expended for assistance for any country under a Cooperative Threat Reduction Program until the President resubmits to Congress an updated certification under section 1203(d) of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 22 U.S.C. 5952(d)), section 1412(d) of the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102–484; 22 U.S.C. 5902(d)), and section 502 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Public Law 102–511; 22 U.S.C. 5852).

**SEC. 1311. PERIOD COVERED BY ANNUAL REPORT ON ACCOUNTING FOR UNITED STATES ASSISTANCE UNDER COOPERATIVE THREAT REDUCTION PROGRAMS.**

Section 1206(a)(2) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 471; 22 U.S.C. 5955 note) is amended to read as follows: * * *

[4] Sec. 1307 limited the use of CTR funds pending submittal of a multiyear plan. Sec. 1308(g)(1)(D) of Public Law 106–398 (114 Stat. 1654A–343) repealed this section. Sec. 1308 of that Act repealed several CTR reporting requirements and established a new, consolidated, report on activities and assistance under CTR programs.

**SEC. 1312.[5] RUSSIAN NONSTRATEGIC NUCLEAR ARMS.**

It[6] is the sense of Congress that—

(1) it is in the interest of Russia to fully implement the Presidential Nuclear Initiatives announced in 1991 and 1992 by then-President of the Soviet Union Gorbachev and then-President of Russia Yeltsin;

(2) the President of the United States should call on Russia to match the unilateral reductions in the United States inventory of tactical nuclear weapons, which have reduced the inventory by nearly 90 percent; and

(3) if the re-certification under section 1310 is made, the President should emphasize the continued interest of the United States in working cooperatively with Russia to reduce the dangers associated with Russia's tactical nuclear arsenal.

* * * * * * *

[5] 22 U.S.C. 5955 note.

[6] Sec. 1308(g)(3) of Public Law 106–398 (114 Stat. 1654A–343) struck out "(a) SENSE OF CONGRESS.—" and further struck out subsecs. (b) and (c), which had required inclusion of information on Russia's arsenal of tactical nuclear warheads and related details in the CTR annual report.

## m. Cooperative Threat Reduction, Fiscal Year 1999

**Partial text of Public Law 105–261 [Strom Thurmond National Defense Authorization Act for Fiscal Year 1999; H.R. 3616], 112 Stat. 1920, approved October 17, 1998; as amended by Public Law 108–375 [Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005; H.R. 4200] 118 Stat. 1811, approved October 28, 2004**

AN ACT To authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; FINDINGS.**

(a) SHORT TITLE.—This Act may be cited as the "Strom Thurmond National Defense Authorization Act for Fiscal Year 1999".

(b) * * *

* * * * * * *

## DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

* * * * * * *

## TITLE III—OPERATION AND MAINTENANCE

### Subtitle A—Authorization of Appropriations

**SEC. 301. OPERATION AND MAINTENANCE FUNDING.**

Funds are hereby authorized to be appropriated for fiscal year 1999 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1)–(22) * * *

(23) For Cooperative Threat Reduction programs, $440,400,000.

(24) * * *

* * * * * * *

## TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION


Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
Sec. 1302. Funding allocations.
Sec. 1303. Prohibition on use of funds for specified purposes.
Sec. 1304. Limitation on use of funds for chemical weapons destruction activities in Russia.
Sec. 1305. Limitation on use of funds for biological weapons proliferation prevention activities in Russia.
Sec. 1306. Cooperative counter-proliferation program.

Sec. 1307. Requirement to submit summary of amounts requested by project category.
Sec. 1308. Report on biological weapons programs in Russia.
Sec. 1309. Report on individuals with expertise in former Soviet weapons of mass destruction programs.

**SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.**

(a)[1] SPECIFICATION OF CTR PROGRAMS.—(1) For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note) (as amended by paragraph (2)).

(2) Section 1501(b)(3) of such Act is amended by inserting "materials," after "components,".

(b) FISCAL YEAR 1999 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term "fiscal year 1999 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

**SEC. 1302. FUNDING ALLOCATIONS.**

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the amounts authorized to be appropriated to the Department of Defense for fiscal year 1999 in section 301(23), $440,400,000 shall be available to carry out Cooperative Threat Reduction programs, of which not more than the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $142,400,000.

(2) For strategic nuclear arms elimination in Ukraine, $47,500,000.

(3) For activities to support warhead dismantlement processing in Russia, $9,400,000.

(4) For activities associated with chemical weapons destruction in Russia, $88,400,000.

(5) For weapons transportation security in Russia, $10,300,000.

(6) For planning, design, and construction of a storage facility for Russian fissile material, $60,900,000.

(7) For weapons storage security in Russia, $41,700,000.

(8) For development of a cooperative program with the Government of Russia to eliminate the production of weapons grade plutonium at Russian reactors, $29,800,000.

(9) For biological weapons proliferation prevention activities in Russia, $2,000,000.

(10) For activities designated as Other Assessments/Administrative Support, $8,000,000.

[1] 22 U.S.C. 5952 note.

(b) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) If the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may, subject to paragraphs (2) and (3), obligate amounts for the purposes stated in any of the paragraphs of subsection (a) in excess of the amount specified for those purposes in that paragraph. However, the total amount obligated for the purposes stated in the paragraphs in subsection (a) may not by reason of the use of the authority provided in the preceding sentence exceed the sum of the amounts specified in those paragraphs.

(2) An obligation for the purposes stated in any of the paragraphs in subsection (a) in excess of the amount specified in that paragraph may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts appropriated for the purposes stated in any of paragraphs (3) through (10) of subsection (a) in excess of 115 percent of the amount stated in those paragraphs.

**SEC. 1303. PROHIBITION ON USE OF FUNDS FOR SPECIFIED PURPOSES.**

(a) IN GENERAL.—No fiscal year 1999 Cooperative Threat Reduction funds, and no funds appropriated for Cooperative Threat Reduction programs for any prior fiscal year and remaining available for obligation, may be obligated or expended for any of the following purposes:

(1) Conducting with Russia any peacekeeping exercise or other peacekeeping-related activity.

(2) Provision of housing.

(3) Provision of assistance to promote environmental restoration.

(4) Provision of assistance to promote job retraining.

(b) LIMITATION WITH RESPECT TO DEFENSE CONVERSION ASSISTANCE.—None of the funds appropriated pursuant to this Act may be obligated or expended for the provision of assistance to Russia or any other state of the former Soviet Union to promote defense conversion.

**SEC. 1304.[1] LIMITATION ON USE OF FUNDS FOR CHEMICAL WEAPONS DESTRUCTION ACTIVITIES IN RUSSIA.**

(a) LIMITATION.—Subject to the limitation in section 1405(b) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1961), no funds authorized to be appropriated for Cooperative Threat Reduction programs under this Act or any other Act may be obligated or expended for chemical weapons destruction activities in Russia (including activities for the planning, design, or construction of a chemical weapons destruction facility or for the dismantlement of an existing chemical weapons production facility) until the President submits to Congress a written certification described in subsection (b).

(b) PRESIDENTIAL CERTIFICATION.—A certification under this subsection is either of the following certifications by the President:

(1) A certification that—

(A) Russia is making reasonable progress toward the implementation of the Bilateral Destruction Agreement;

(B) the United States and Russia have made substantial progress toward the resolution, to the satisfaction of the United States, of outstanding compliance issues under the Wyoming Memorandum of Understanding and the Bilateral Destruction Agreement; and

(C) Russia has fully and accurately declared all information regarding its unitary and binary chemical weapons, chemical weapons facilities, and other facilities associated with chemical weapons.

(2)[2] A certification that the national security interests of the United States could be undermined by a policy of the United States not to carry out chemical weapons destruction activities under Cooperative Threat Reduction programs for which funds are authorized to be appropriated under this Act or any other Act for fiscal year 1999.

(c) DEFINITIONS.—In this section:

(1) The term "Bilateral Destruction Agreement" means the Agreement Between the United States of America and the Union of Soviet Socialist Republics on Destruction and Nonproduction of Chemical Weapons and on Measures to Facilitate the Multilateral Convention on Banning Chemical Weapons signed on June 1, 1990.

(2) The term "Wyoming Memorandum of Understanding" means the Memorandum of Understanding Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989.

**SEC. 1305. LIMITATION ON USE OF FUNDS FOR BIOLOGICAL WEAPONS PROLIFERATION PREVENTION ACTIVITIES IN RUSSIA.**

No fiscal year 1999 Cooperative Threat Reduction funds may be obligated or expended for biological weapons proliferation prevention activities in Russia until 15 days after the date on which the Secretary submits to the congressional defense committees a report on—

(1) whether Cooperative Threat Reduction funds provided for cooperative research activities at biological research institutes in Russia have been used—

(A) to support activities to develop new strains of anthrax; or

(B) for any purpose inconsistent with the objectives of providing such funds; and

[2] In a memorandum of July 16, 1999 (64 F.R. 40503; July 26, 1999), the President delegated the authority in this paragraph to the Secretary of Defense, further stating that such authority may be redelegated not lower than the Under Secretary level.

(2) the new strains of anthrax alleged to have been developed at a biological research institute in Russia and any efforts by the United States to examine such strains.

**SEC. 1306. COOPERATIVE COUNTER PROLIFERATION PROGRAM.**

(a) IN GENERAL.—Of the amount authorized to be appropriated in section 1302 (other than the amounts authorized to be appropriated in subsections (a)(1) and (a)(2) of that section) and subject to the limitations in that section and subsection (b), the Secretary of Defense may provide a country of the former Soviet Union with emergency assistance for removing or obtaining from that country—

(1) weapons of mass destruction; or

(2) materials, equipment, or technology related to the development or delivery of weapons of mass destruction.

(b) CERTIFICATION REQUIRED.—(1) The Secretary may not provide assistance under subsection (a) until 15 days after the date that the Secretary submits to the congressional defense committees a certification in writing that the weapons, materials, equipment, or technology described in that subsection meet each of the following requirements:

(A) The weapons, materials, equipment, or technology are at risk of being sold or otherwise transferred to a restricted foreign state or entity.

(B) The transfer of the weapons, materials, equipment, or technology would pose a significant near-term threat to the national security interests of the United States or would significantly advance a foreign country's weapon program that threatens the national security interests of the United States.

(C) Other options for securing or otherwise preventing the transfer of the weapons, materials, equipment, or technology have been considered and rejected as ineffective or inadequate.

(2) The 15-day notice requirement in paragraph (1) may be waived if the Secretary determines that compliance with the requirement would compromise the national security interests of the United States. In such case, the Secretary shall promptly notify the congressional defense committees of the circumstances regarding such determination in advance of providing assistance under subsection (a) and shall submit the certification required not later than 30 days after providing such assistance.

(c) CONTENT OF CERTIFICATIONS.—Each certification required under subsection (b) shall contain information on the following with respect to the assistance being provided:

(1) The specific assistance provided and the purposes for which the assistance is being provided.

(2) The sources of funds for the assistance.

(3) Whether any assistance is being provided by any other Federal department or agency.

(4) The options considered and rejected for preventing the transfer of the weapons, materials, equipment, or technology, as described in subsection (b)(1)(C).

(5) Whether funding was requested by the Secretary from other Federal departments or agencies.

(6) Any additional information that the Secretary determines is relevant to the assistance being provided.

(d) ADDITIONAL SOURCES OF FUNDING.—The Secretary may request assistance and accept funds from other Federal departments or agencies in carrying out this section.

(e) DEFINITIONS.—In this section:

(1) The term "restricted foreign state or entity", with respect to weapons, materials, equipment, or technology covered by a certification or notification of the Secretary of Defense under subsection (b), means—

(A) any foreign country the government of which has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371); or

(B) any foreign state or entity that the Secretary of Defense determines would constitute a military threat to the United States, its allies, or interests, if that foreign state or entity were to possess the weapons, materials, equipment, or technology.

(2) The term "weapons of mass destruction" has the meaning given that term in section 1403(1) of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 50 U.S.C. 2302(1)).

**SEC. 1307.[1] REQUIREMENT TO SUBMIT SUMMARY OF AMOUNTS REQUESTED BY PROJECT CATEGORY.**

(a) SUMMARY REQUIRED.—The Secretary of Defense shall submit to Congress in the materials and manner specified in subsection (c)[3]—

(1) a descriptive summary, with respect to the appropriations requested for Cooperative Threat Reduction programs for the fiscal year after the fiscal year in which the summary is submitted, of the amounts requested for each project category under each Cooperative Threat Reduction program element; and

(2) a descriptive summary, with respect to appropriations for Cooperative Threat Reduction programs for the fiscal year in which the list is submitted and the previous fiscal year, of the amounts obligated or expended, or planned to be obligated or expended, for each project category under each Cooperative Threat Reduction program element.

(b) DESCRIPTION OF PURPOSE AND INTENT.—The descriptive summary required under subsection (a) shall include a narrative description of each program and project category under each Cooperative Threat Reduction program element that explains the purpose and intent of the funds requested.

(c)[3] INCLUSION IN CERTAIN MATERIALS SUBMITTED TO CONGRESS.—The summary required to be submitted to Congress in a fiscal year under subsection (a) shall be set forth by project category, and by amounts specified in paragraphs (1) and (2) of that

[3] Sec. 1304(1) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1811) struck out "as part of the Secretary's annual budget request to Congress" and inserted in lieu thereof "in the materials and manner specified in subsection (c)". Sec. 1304(2) of that Act added subsec. (c) to the end of this section.

subsection in connection with such project category, in each of the following:

(1) The annual report on activities and assistance under Cooperative Threat Reduction programs required in such fiscal year under section 1308 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398).

(2) The budget justification materials submitted to Congress in support of the Department of Defense budget for the fiscal year succeeding such fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code).

**SEC. 1308. REPORT ON BIOLOGICAL WEAPONS PROGRAMS IN RUSSIA.**

(a) REPORT.—Not later than March 1, 1999, the Secretary of Defense shall submit to the congressional defense committees a report, in classified and unclassified forms, containing—

(1) an assessment of the extent of compliance by Russia with international agreements relating to the control of biological weapons; and

(2) a detailed evaluation of the potential political and military costs and benefits of collaborative biological pathogen research efforts by the United States and Russia.

(b) CONTENT OF REPORT.—The report required under subsection (a) shall include the following:

(1) An evaluation of the extent of the control and oversight by the Government of Russia over the military and civilian-military biological warfare programs formerly controlled or overseen by states of the former Soviet Union.

(2) The extent and scope of continued biological warfare research, development, testing, and production in Russia, including the sites where such activity is occurring and the types of activity being conducted.

(3) An assessment of compliance by Russia with the terms of the Biological Weapons Convention.

(4) An identification and assessment of the measures taken by Russia to comply with the obligations assumed under the Joint Statement on Biological Weapons, agreed to by the United States, the United Kingdom, and Russia on September 14, 1992.

(5) A description of the extent to which Russia has permitted individuals from the United States or other countries to visit military and nonmilitary biological research, development, testing, and production sites in order to resolve ambiguities regarding activities at such sites.

(6) A description of the information provided by Russia about its biological weapons dismantlement efforts to date.

(7) An assessment of the accuracy and comprehensiveness of declarations by Russia regarding its biological weapons activities.

(8) An identification of collaborative biological research projects carried out by the United States and Russia for which Cooperative Threat Reduction funds have been used.

(9) An evaluation of the political and military utility of prior, existing, and prospective cooperative biological pathogen research programs carried out between the United States and Russia, and an assessment of the impact of such programs on increasing Russian military transparency with respect to biological weapons activities.

(10) An assessment of the political and military utility of the long-term collaborative program advocated by the National Academy of Sciences in its October 27, 1997 report, "Controlling Dangerous Pathogens: A Blueprint for U.S.-Russian Cooperation".

**SEC. 1309. REPORT ON INDIVIDUALS WITH EXPERTISE IN FORMER SOVIET WEAPONS OF MASS DESTRUCTION PROGRAMS.**

Not later than January 31, 1999, the Secretary of Defense, in consultation with the Secretary of State, the Secretary of Energy, and any other appropriate officials, shall submit to the congressional defense committees a report on the number of individuals in the former Soviet Union who have significant expertise in the research, development, production, testing, and operational employment of ballistic missiles and weapons of mass destruction. The report shall contain the following:

(1) A listing of the specific expertise of the individuals, by category and discipline.

(2) An assessment of which categories of expertise would pose the greatest risks to the security of the United States if that expertise were transferred to potentially hostile states.

(3) An estimate, by category, of the number of the individuals in paragraph (1) who are fully or partly employed at the time the report is submitted by the military-industrial complex of the former Soviet Union, the number of such individuals who are fully employed at the time the report is submitted by commercial ventures outside the military-industrial complex of the former Soviet Union, and the number of such individuals who are unemployed and underemployed at the time the report is submitted.

(4) An identification of the nature, scope, and cost of activities conducted by the United States and other countries to assist in the employment in nonproliferation and nonmilitary-related endeavors and enterprises of individuals involved in the weapons complex of the former Soviet Union, and which categories of individuals are being targeted in these efforts.

(5) An assessment of whether the activities identified under paragraph (4) should be reduced, maintained, or expanded.

* * * * * * *

## n. Cooperative Threat Reduction, Fiscal Year 1998

**Partial text of Public Law 105–85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119], 111 Stat. 1629, approved November 18, 1997**

AN ACT To authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1998".

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## DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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## TITLE III—OPERATION AND MAINTENANCE

### Subtitle A—Authorization of Appropriations

**SEC. 301. OPERATION AND MAINTENANCE FUNDING.**

Funds are hereby authorized to be appropriated for fiscal year 1998 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1)–(22) * * *

(23) For Cooperative Threat Reduction programs, $382,200,000.

(24) * * *

* * * * * * *

## TITLE XIV—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION


Sec. 1401. Specification of Cooperative Threat Reduction programs and funds.
Sec. 1402. Funding allocations.
Sec. 1403. Prohibition on use of funds for specified purposes.
Sec. 1404. Limitation on use of funds for projects related to START II Treaty until submission of certification.
Sec. 1405. Limitation on use of funds for chemical weapons destruction facility.
Sec. 1406. Limitation on use of funds for destruction of chemical weapons.
Sec. 1407. Limitation on use of funds for storage facility for Russian fissile material.
Sec. 1408. Limitation on use of funds for weapons storage security.

Sec. 1409. Report on issues regarding payment of taxes, duties, and other assessments on assistance provided to Russia under Cooperative Threat Reduction programs.
Sec. 1410. Availability of funds.

**SEC. 1401. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.**

(a) SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) FISCAL YEAR 1998 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term "fiscal year 1998 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

**SEC. 1402. FUNDING ALLOCATIONS.**

(a) IN GENERAL.—Of the fiscal year 1998 Cooperative Threat Reduction funds, not more than the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $77,900,000.

(2) For strategic nuclear arms elimination in Ukraine, $76,700,000.

(3) For fissile material containers in Russia, $7,000,000.

(4) For planning and design of a chemical weapons destruction facility in Russia, $35,400,000.

(5) For dismantlement of biological and chemical weapons facilities in the former Soviet Union, $20,000,000.

(6) For planning, design, and construction of a storage facility for Russian fissile material, $57,700,000.

(7) For weapons storage security in Russia, $36,000,000.

(8) For development of a cooperative program with the Government of Russia to eliminate the production of weapons grade plutonium at Russian reactors, $41,000,000.

(9) For activities designated as Defense and Military-to-Military Contacts in Russia, Ukraine, and Kazakhstan, $8,000,000.

(10) For military-to-military programs of the United States that focus on countering the threat of proliferation of weapons of mass destruction and that include the security forces of the independent states of the former Soviet Union other than Russia, Ukraine, Belarus, and Kazakstan, $2,000,000.

(11) For activities designated as Other Assessments/Administrative Support $20,500,000.

(b) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) If the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may, subject to paragraphs (2) and (3), obligate amounts for the purposes stated in any of the paragraphs of subsection (a) in excess of the amount specified for those purposes in that paragraph. However, the total amount obligated for the purposes stated in the paragraphs in subsection (a) may not by reason of the use of the authority provided in the preceding sentence exceed the sum of the amounts specified in those paragraphs.

(2) An obligation for the purposes stated in any of the paragraphs in subsection (a) in excess of the amount specified in that paragraph may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts appropriated for the purposes stated in any of paragraphs (3) through (11) of subsection (a) in excess of 115 percent of the amount stated in those paragraphs.

(c) LIMITED WAIVER OF 115 PERCENT CAP ON OBLIGATION IN EXCESS OF AMOUNTS AUTHORIZED FOR FISCAL YEARS 1996 AND 1997.—(1) The limitation in subsection (b)(1) of section 1202 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 469), that provides that the authority provided in that sentence to obligate amounts specified for Cooperative Threat Reduction purposes in excess of the amount specified for each such purpose in subsection (a) of that section may not exceed 115 percent of the amounts specified, shall not apply with respect to subsection (a)(1) of such section for purposes of strategic offensive weapons elimination in Russia or the Ukraine.

(2) The limitation in subsection (b)(1) of section 1502 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2732), that provides that the authority provided in that sentence to obligate amounts specified for Cooperative Threat Reduction purposes in excess of the amount specified for each such purpose in subsection (a) of that section may not exceed 115 percent of the amounts specified, shall not apply with respect to subsections (a)(2) and (a)(3) of such section.

**SEC. 1403. PROHIBITION ON USE OF FUNDS FOR SPECIFIED PURPOSES.**

(a) IN GENERAL.—No fiscal year 1998 Cooperative Threat Reduction funds, and no funds appropriated for Cooperative Threat Reduction programs for any prior fiscal year and remaining available for obligation, may be obligated or expended for any of the following purposes:

(1) Conducting with Russia any peacekeeping exercise or other peacekeeping-related activity.

(2) Provision of housing.

(3) Provision of assistance to promote environmental restoration.

(4) Provision of assistance to promote job retraining.

(b) LIMITATION WITH RESPECT TO DEFENSE CONVERSION ASSISTANCE.—None of the funds appropriated pursuant to this Act may be obligated or expended for the provision of assistance to Russia or any other state of the former Soviet Union to promote defense conversion.

**SEC. 1404. LIMITATION ON USE OF FUNDS FOR PROJECTS RELATED TO START II TREATY UNTIL SUBMISSION OF CERTIFICATION.**

No fiscal year 1998 Cooperative Threat Reduction funds may be obligated or expended for strategic offensive arms elimination projects in Russia related to the START II Treaty (as defined in section 1302(f)) until 30 days after the date on which the Secretary of Defense submits to Congress a certification in writing that—

(1) implementation of the projects would benefit the national security interest of the United States; and

(2) Russia has agreed in an implementing agreement to share the cost for the projects.

**SEC. 1405. LIMITATION ON USE OF FUNDS FOR CHEMICAL WEAPONS DESTRUCTION FACILITY.**

(a) LIMITATION ON USE OF FUNDS UNTIL SUBMISSION OF NOTIFICATIONS TO CONGRESS.—No fiscal year 1998 Cooperative Threat Reduction funds may be obligated or expended for planning and design of a chemical weapons destruction facility until 15 days after the date that is the later of the following:

(1) The date on which the Secretary of Defense submits to Congress notification of an agreement between the United States and Russia with respect to such chemical weapons destruction facility that includes—

(A) an agreement providing for a limitation on the financial contribution by the United States for the facility;

(B) an agreement that the United States will not pay the costs for infrastructure determined by Russia to be necessary to support the facility; and

(C) an agreement on the location of the facility.

(2) The date on which the Secretary of Defense submits to Congress notification that the Government of Russia has formally approved a plan—

(A) that allows for the destruction of chemical weapons in Russia; and

(B) that commits Russia to pay a portion of the cost for the facility.

(b) PROHIBITION ON USE OF FUNDS FOR FACILITY CONSTRUCTION.—No fiscal year 1998 Cooperative Threat Reduction funds authorized to be obligated in section 1402(a)(4) for planning and design of a chemical weapons destruction facility in Russia may be used for construction of such facility.

**SEC. 1406. LIMITATION ON USE OF FUNDS FOR DESTRUCTION OF CHEMICAL WEAPONS.**

(a) LIMITATION.—No funds authorized to be appropriated under this or any other Act for fiscal year 1998 for Cooperative Threat Reduction programs may be obligated or expended for chemical weapons destruction activities (including activities for the planning, design, or construction of a chemical weapons destruction facility or for the dismantlement of an existing chemical weapons production facility) until the President submits to Congress a written certification under subsection (b).

(b) PRESIDENTIAL CERTIFICATION.—A certification under this subsection is either of the following certifications by the President:

(1) A certification that—

(A) Russia is making reasonable progress toward the implementation of the Bilateral Destruction Agreement;

(B) the United States and Russia have made substantial progress toward the resolution, to the satisfaction of the United States, of outstanding compliance issues under the Wyoming Memorandum of Understanding and the Bilateral Destruction Agreement; and

(C) Russia has fully and accurately declared all information regarding its unitary and binary chemical weapons, chemical weapons facilities, and other facilities associated with chemical weapons.

(2) A certification that the national security interests of the United States could be undermined by a United States policy not to carry out chemical weapons destruction activities under the Cooperative Threat Reduction programs for which funds are authorized to be appropriated under this or any other Act for fiscal year 1998.

(c) DEFINITIONS.—For the purposes of this section:

(1) The term "Bilateral Destruction Agreement" means the Agreement Between the United States of America and the Union of Soviet Socialist Republics on Destruction and Nonproduction of Chemical Weapons and on Measures to Facilitate the Multilateral Convention on Banning Chemical Weapons, signed on June 1, 1990.

(2) The term "Wyoming Memorandum of Understanding" means the Memorandum of Understanding Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989.

**SEC. 1407. LIMITATION ON USE OF FUNDS FOR STORAGE FACILITY FOR RUSSIAN FISSILE MATERIAL.**

No fiscal year 1998 Cooperative Threat Reduction funds may be obligated or expended for planning, design, or construction of a storage facility for Russian fissile material until 15 days after the date that is the later of the following:

(1) The date on which the Secretary of Defense submits to Congress notification that an implementing agreement between the United States and Russia has been entered into that specifies the total cost to the United States for the facility.

(2) The date on which the Secretary submits to Congress notification that an agreement has been entered into between the United States and Russia incorporating the principle of transparency with respect to the use of the facility.

**SEC. 1408. LIMITATION ON USE OF FUNDS FOR WEAPONS STORAGE SECURITY.**

No fiscal year 1998 Cooperative Threat Reduction funds intended for weapons storage security activities in Russia may be obligated or expended until—

(1) the Secretary of Defense submits to Congress a report on the status of negotiations between the United States and Russia on audits and examinations with respect to weapons storage security; and

(2) 15 days have elapsed following the date that the report is submitted.

**SEC. 1409. REPORT ON ISSUES REGARDING PAYMENT OF TAXES, DUTIES, AND OTHER ASSESSMENTS ON ASSISTANCE PROVIDED TO RUSSIA UNDER COOPERATIVE THREAT REDUCTION PROGRAMS.**

Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on issues regarding payment of taxes, duties, and other assessments on assistance provided to Russia under Cooperative Threat Reduction programs. The report shall include the following:

(1) A description of any disputes between the United States and Russia with respect to payment by the United States of taxes, duties and other assessments on assistance provided to Russia under a Cooperative Threat Reduction program, including a description of the nature of each dispute, the amount of payment disputed, whether the dispute was resolved, and if the dispute was resolved, the means by which the dispute was resolved.

(2) A description of the actions taken by the Secretary to prevent disputes in the future between the United States and Russia with respect to payment by the United States of taxes, duties, and other assessments on assistance provided to Russia under a Cooperative Threat Reduction program.

(3) A description of any agreement between the United States and Russia with respect to payment by the United States of taxes, duties, or other assessments on assistance provided to Russia under a Cooperative Threat Reduction program.

(4) Any proposals of the Secretary for actions that should be taken to prevent disputes between the United States and Russia with respect to payment by the United States of taxes, duties, or other assessments on assistance provided to Russia under a Cooperative Threat Reduction program.

**SEC. 1410. AVAILABILITY OF FUNDS.**

Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

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## o. Cooperative Threat Reduction, Fiscal Year 1997 [1]

**Partial text of Public Law 104–201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; as amended by Public Law 105–261 [Strom Thurmond National Defense Authorization Act for Fiscal Year 1999; H.R. 3616], 112 Stat. 1920, approved October 17, 1998; and Public Law 110–181 [National Defense Authorization Act for Fiscal Year 2008; H.R. 4986], 122 Stat. 3, approved January 28, 2008**

AN ACT To authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1997".

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## TITLE III—OPERATION AND MAINTENANCE

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### Subtitle A—Authorization of Appropriations

**SEC. 301. OPERATION AND MAINTENANCE FUNDING.**

Funds are hereby authorized to be appropriated for fiscal year 1997 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1)–(21) * * *

(22) For Cooperative Threat Reduction programs, $364,900,000.[2]

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[1] See also the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 110 Stat. 2714): sec. 1402—Findings (50 U.S.C. 2301 note); sec. 1424—International Border Security (50 U.S.C. 2333); sec. 1431—Coverage of Weapons-Usable Fissile Materials in Cooperative Threat Reduction Programs on Elimination or Transportation of Nuclear Weapons; sec. 1432—Elimination of Plutonium Production (50 U.S.C. 2341); sec. 1452—Transfers of Allocations Among Cooperative Threat Reduction Programs (50 U.S.C. 2362); sec. 1453—Sense of Congress Concerning Assistance to States of Former Soviet Union (50 U.S.C. 2363); sec. 1454—Purchase of Low-Enriched Uranium Derived From Russian Highly-Enriched Uranium (50 U.S.C. 2364); and sec. 1455—Sense of Congress Concerning Purchase, Packaging, and Transportation of Fissile Materials at Risk of Theft (50 U.S.C. 2365).

[2] Title II of the Department of Defense Appropriations Act, 1997 (sec. 101(b) of title I of Public Law 104–208; 110 Stat. 3009), provided the following:

"FORMER SOVIET UNION THREAT REDUCTION

"For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for

(23)–(24) * * *

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## TITLE XV—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION

Sec. 1501. Specification of Cooperative Threat Reduction programs.
Sec. 1502. Fiscal year 1997 funding allocations.
Sec. 1503. Prohibition on use of funds for specified purposes.
Sec. 1504. Limitation on use of funds until specified reports are submitted.
Sec. 1505. Availability of funds.

### SEC. 1501.[3] SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS.

(a) IN GENERAL.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in subsections (b) and (c).[4]

(b) SPECIFIED PROGRAMS.—The programs referred to in subsection (a) are the following programs with respect to states of the former Soviet Union:

(1) Programs to facilitate the elimination, and the safe and secure transportation and storage, of nuclear, chemical, and other weapons and their delivery vehicles.

(2) Programs to facilitate the safe and secure storage of fissile materials derived from the elimination of nuclear weapons.

(3) Programs to prevent the proliferation of weapons, weapons components, materials,[5] and weapons-related technology and expertise.

(4) Programs to expand military-to-military and defense contacts.

(c)[4] SPECIFIED PROGRAMS WITH RESPECT TO STATES OUTSIDE THE FORMER SOVIET UNION.—The programs referred to in subsection (a) are the following programs with respect to states that are not states of the former Soviet Union:

(1) Programs to facilitate the elimination, and the safe and secure transportation and storage, of chemical or biological weapons, weapons components, weapons-related materials, and their delivery vehicles.

(2) Programs to facilitate safe and secure transportation and storage of nuclear weapons, weapons components, and their delivery vehicles.

(3) Programs to prevent the proliferation of nuclear and chemical weapons, weapons components, and weapons-related military technology and expertise.

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programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise; $327,900,000, to remain available until expended.".

[3] 50 U.S.C. 2362 note.

[4] Sec. 1303(1) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 412) struck out "subsection (b)" at this point and inserted in lieu thereof "subsections (b) and (c)", and added a new subsec. (c) at the end of this section.

[5] Sec. 1301(a)(2) of Public Law 105–261 (112 Stat. 2161) inserted "materials," after "components,".

(4) Programs to prevent the proliferation of biological weapons, weapons components, and weapons-related military technology and expertise, which may include activities that facilitate detection and reporting of highly pathogenic diseases or other diseases that are associated with or that could be utilized as an early warning mechanism for disease outbreaks that could impact the Armed Forces of the United States or allies of the United States.

(5) Programs to expand military-to-military and defense contacts.

**SEC. 1502. FISCAL YEAR 1997 FUNDING ALLOCATIONS.**

(a) IN GENERAL.—Of the amount appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs, not more than the following amounts may be obligated for the purposes specified:

(1) For planning and design of a chemical weapons destruction facility in Russia, $78,500,000.

(2) For elimination of strategic offensive arms in Russia, $52,000,000.

(3) For strategic nuclear arms elimination in Ukraine, $47,000,000.

(4) For planning and design of a storage facility for Russian fissile material, $66,000,000.

(5) For fissile material containers in Russia, $38,500,000.

(6) For weapons storage security in Russia, $15,000,000.

(7) For activities designated as Defense and Military-to-Military Contacts in Russia, Ukraine, Belarus, and Kazakhstan, $10,000,000.

(8) For activities designated as Other Assessments/Administrative Support, $20,900,000.

(9) For materials protection, control, and accounting assistance or for destruction of nuclear, radiological, biological, or chemical weapons or related materials at any site within the former Soviet Union, $10,000,000.

(10) For transfer to the Secretary of Energy to develop a cooperative program with the Government of Russia to eliminate the production of weapons grade plutonium at Russian reactors, $10,000,000.

(11) For dismantlement of biological and chemical weapons facilities in the former Soviet Union, $15,000,000.

(12) For expanding military-to-military programs of the United States that focus on countering the threat of proliferation of weapons of mass destruction to include the security forces of the independent states of the former Soviet Union, particularly states in the Caucasus region and Central Asia, $2,000,000.

(b) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1)[6] If the Secretary of Defense determines that it is necessary to do so

[6] Sec. 1402(c) of Public Law 105–85 (111 Stat. 1959) provided the following:

"(c) LIMITED WAIVER OF 115 PERCENT CAP ON OBLIGATION IN EXCESS OF AMOUNTS AUTHORIZED FOR FISCAL YEARS 1996 AND 1997.—(1) The limitation in subsection (b)(1) of section 1202 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 469), that provides that the authority provided in that sentence to obligate amounts specified

in the national interest, the Secretary may, subject to paragraph (2), obligate amounts for the purposes stated in any of the paragraphs of subsection (a) in excess of the amount specified for those purposes in that paragraph, but not in excess of 115 percent of that amount. However, the total amount obligated for the purposes stated in the paragraphs in subsection (a) may not by reason of the use of the authority provided in the preceding sentence exceed the sum of the amounts specified in those paragraphs.

(2) An obligation for the purposes stated in any of the paragraphs in subsection (a) in excess of the amount specified in that paragraph may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress a notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

**SEC. 1503. PROHIBITION ON USE OF FUNDS FOR SPECIFIED PURPOSES.**

(a) IN GENERAL.—None of the funds appropriated pursuant to the authorization in section 301 for Cooperative Threat Reduction programs, or appropriated for such programs for any prior fiscal year and remaining available for obligation, may be obligated or expended for any of the following purposes:

(1) Conducting with Russia any peacekeeping exercise or other peacekeeping-related activity.

(2) Provision of housing.

(3) Provision of assistance to promote environmental restoration.

(4) Provision of assistance to promote job retraining.

(b) LIMITATION WITH RESPECT TO DEFENSE CONVERSION ASSISTANCE.—None of the funds appropriated to the Department of Defense for fiscal year 1997 may be obligated or expended for defense conversion.

**SEC. 1504. LIMITATION ON USE OF FUNDS UNTIL SPECIFIED REPORTS ARE SUBMITTED.**

None of the funds appropriated pursuant to the authorization in section 301 for Cooperative Threat Reduction programs may be obligated or expended until 15 days after the date which is the latest of the following:

(1) The date on which the President submits to Congress the determinations required under subsection (c) of section 211 of Public Law 102–228 (22 U.S.C. 2551 note) with respect to any certification transmitted to Congress under subsection (b) of that section before the date of the enactment of this Act.

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for Cooperative Threat Reduction purposes in excess of the amount specified for each such purpose in subsection (a) of that section may not exceed 115 percent of the amounts specified, shall not apply with respect to subsection (a)(1) of such section for purposes of strategic offensive weapons elimination in Russia or the Ukraine.

"(2) The limitation in subsection (b)(1) of section 1502 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2732), that provides that the authority provided in that sentence to obligate amounts specified for Cooperative Threat Reduction purposes in excess of the amount specified for each such purpose in subsection (a) of that section may not exceed 115 percent of the amounts specified, shall not apply with respect to subsections (a)(2) and (a)(3) of such section.".

(2) The date on which the Secretary of Defense submits to Congress the first report under section 1206(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 471).

(3) The date on which the Secretary of Defense submits to Congress the report for fiscal year 1996 required under section 1205(c) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2883).

**SEC. 1505. AVAILABILITY OF FUNDS.**

Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

## p. Cooperative Threat Reduction, Fiscal Year 1996

**Partial text of Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; as amended by Public Law 104–201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; Public Law 106–65 [National Defense Authorization Act for Fiscal Year 2000; S. 1059], 113 Stat. 512, approved October 5, 1999; and Public Law 106–398 [Floyd D. Spence National Defense Authorization Act for Fiscal Year 2000; H.R. 4205], 114 Stat. 1654, approved October 30, 2000**

AN ACT To authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to reform acquisition laws and information technology management of the Federal Government, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1996".

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### TITLE III—OPERATION AND MAINTENANCE

### Subtitle A—Authorization of Appropriations

**SEC. 301. OPERATION AND MAINTENANCE FUNDING.**

Funds are hereby authorized to be appropriated for fiscal year 1996 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1)–(17) * * *

(18) For Cooperative Threat Reduction programs, $300,000,000.[1]

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[1] Title II of the Department of Defense Appropriations Act (Public Law 104–61; 109 Stat. 642, 674) provided the following:

"FORMER SOVIET UNION THREAT REDUCTION

"For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise; $300,000,000, to remain available until expended.

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"GENERAL PROVISIONS

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"SEC. 8114. (a) LIMITATION.—Of the funds available under title II under the heading 'FORMER SOVIET UNION THREAT REDUCTION' for dismantlement and destruction of chemical weapons, not

Continued

(19) * * *

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## TITLE XII—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION

### SEC. 1201.[2] SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS.

(a) IN GENERAL.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in subsection (b).

(b) SPECIFIED PROGRAMS.—The programs referred to in subsection (a) are the following programs with respect to states of the former Soviet Union:

(1) Programs to facilitate the elimination, and the safe and secure transportation and storage, of nuclear, chemical, and other weapons, fissile material suitable for use in nuclear weapons,[3] and their delivery vehicles.

(2) Programs to facilitate the safe and secure storage of fissile materials derived from the elimination of nuclear weapons.

(3) Programs to prevent the proliferation of weapons, weapons components, and weapons-related technology and expertise.

(4) Programs to expand military-to-military and defense contacts.

### SEC. 1202. FISCAL YEAR 1996 FUNDING ALLOCATIONS.

(a) IN GENERAL.—Of the amount appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs, not more than the following amounts may be obligated for the purposes specified:

(1) For elimination of strategic offensive weapons in Russia, Ukraine, Belarus, and Kazakhstan, $90,000,000.

(2) For weapons security in Russia, $42,500,000.

(3) For the Defense Enterprise Fund, $0.

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more than $52,000,000 may be obligated or expended for that purpose until the President certifies to Congress the following:

"(1) That the United States and Russia have completed a joint laboratory study evaluating the proposal of Russia to neutralize its chemical weapons and the United States agrees with the proposal.

"(2) That Russia is in the process of preparing, with the assistance of the United States as necessary, a comprehensive plan to manage the dismantlement and destruction of the Russia chemical weapons stockpile.

"(3) That the United States and Russia are committed to resolving outstanding issues under the 1989 Wyoming Memorandum of Understanding and the 1990 Bilateral Destruction Agreement.

"(b) DEFINITIONS.—In this section:

"(1) The term '1989 Wyoming Memorandum of Understanding' means the Memorandum of Understanding between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989.

"(2) The term '1990 Bilateral Destruction Agreement' means the Agreement between the United States of America and the Union of Soviet Socialist Republics on destruction and non-production of chemical weapons and on measures to facilitate the multilateral convention on banning chemical weapons signed on June 1, 1990.".

[2] 22 U.S.C. 5955 note.

[3] Sec. 1431 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2726) inserted ", fissile material suitable for use in nuclear weapons," after "other weapons".

(4) For nuclear infrastructure elimination in Ukraine, Belarus, and Kazakhstan, $35,000,000.

(5) For planning and design of a storage facility for Russian fissile material, $29,000,000.

(6) For planning and design of a chemical weapons destruction facility in Russia, $73,000,000.

(7) For activities designated as Defense and Military Contacts/General Support/Training in Russia, Ukraine, Belarus, and Kazakhstan, $10,000,000.

(8) For activities designated as Other Assessments/Support $20,500,000.

(b) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1)[4] If the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may, subject to paragraph (2), obligate amounts for the purposes stated in any of the paragraphs of subsection (a) in excess of the amount specified for those purposes in that paragraph, but not in excess of 115 percent of that amount. However, the total amount obligated for the purposes stated in the paragraphs in subsection (a) may not by reason of the use of the authority provided in the preceding sentence exceed the sum of the amounts specified in those paragraphs.

(2) An obligation for the purposes stated in any of the paragraphs in subsection (a) in excess of the amount specified in that paragraph may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress a notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(c) REIMBURSEMENT OF PAY ACCOUNTS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs may be transferred to military personnel accounts for reimbursement of those accounts for the amount of pay and allowances paid to reserve component personnel for service while engaged in any activity under a Cooperative Threat Reduction program.

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[4] Sec. 1402(c) of Public Law 105–85 (111 Stat. 1959) provided the following:

"(c) LIMITED WAIVER OF 115 PERCENT CAP ON OBLIGATION IN EXCESS OF AMOUNTS AUTHORIZED FOR FISCAL YEARS 1996 AND 1997.—(1) The limitation in subsection (b)(1) of section 1202 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 469), that provides that the authority provided in that sentence to obligate amounts specified for Cooperative Threat Reduction purposes in excess of the amount specified for each such purpose in subsection (a) of that section may not exceed 115 percent of the amounts specified, shall not apply with respect to subsection (a)(1) of such section for purposes of strategic offensive weapons elimination in Russia or the Ukraine.

"(2) The limitation in subsection (b)(1) of section 1502 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2732), that provides that the authority provided in that sentence to obligate amounts specified for Cooperative Threat Reduction purposes in excess of the amount specified for each such purpose in subsection (a) of that section may not exceed 115 percent of the amounts specified, shall not apply with respect to subsections (a)(2) and (a)(3) of such section.".

**SEC. 1203. PROHIBITION ON USE OF FUNDS FOR PEACEKEEPING EXERCISES AND RELATED ACTIVITIES WITH RUSSIA.**

None of the funds appropriated pursuant to the authorization in section 301 for Cooperative Threat Reduction programs may be obligated or expended for the purpose of conducting with Russia any peacekeeping exercise or other peacekeeping-related activity.

**SEC. 1204. REVISION TO AUTHORITY FOR ASSISTANCE FOR WEAPONS DESTRUCTION.**

Section 211 of Public Law 102–228 (22 U.S.C. 2551 note) is amended by adding at the end the following new subsection:

"(c) As part of a transmission to Congress under subsection (b) of a certification that a proposed recipient of United States assistance under this title is committed to carrying out the matters specified in each of paragraphs (1) through (6) of that subsection, the President shall include a statement setting forth, in unclassified form (together with a classified annex if necessary), the determination of the President, with respect to each such paragraph, as to whether that proposed recipient is at that time in fact carrying out the matter specified in that paragraph.".

**SEC. 1205.[5] PRIOR NOTICE TO CONGRESS OF OBLIGATION OF FUNDS.**

(a) ANNUAL REQUIREMENT.—(1) Not less than 15 days before any obligation of any funds appropriated for any fiscal year for a program specified under section 1201 as a Cooperative Threat Reduction program, the Secretary of Defense shall submit to the congressional committees specified in paragraph (2) a report on that proposed obligation for that program for that fiscal year.

(2) The congressional committees referred to in paragraph (1) are the following:

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

(B) The Committee on National Security,[6] the Committee on International Relations, and the Committee on Appropriations of the House of Representatives.

(b) MATTERS TO BE SPECIFIED IN REPORTS.—Each such report shall specify—

(1) the activities and forms of assistance for which the Secretary of Defense plans to obligate funds;

(2) the amount of the proposed obligation; and

(3) the projected involvement (if any) of any department or agency of the United States (in addition to the Department of Defense) and of the private sector of the United States in the activities and forms of assistance for which the Secretary of Defense plans to obligate such funds.

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[5] 22 U.S.C. 5955 note.

[6] The House Committee on National Security reverted back to its former name, Committee on Armed Services, in the 106th Congress. Congress did not enact legislation, however, to universally amend reference to that committee in Public Law. Sec. 1067 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 774) did make such a change in specific pieces of legislation and 10 United States Code.

**SEC. 1206.**[7] * * * [Repealed—2000]

**SEC. 1207. LIMITATION ON ASSISTANCE TO NUCLEAR WEAPONS SCIENTISTS OF FORMER SOVIET UNION.**

Amounts appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs may not be obligated for any program established primarily to assist nuclear weapons scientists in states of the former Soviet Union until 30 days after the date on which the Secretary of Defense certifies in writing to Congress that the funds to be obligated will not be used (1) to contribute to the modernization of the strategic nuclear forces of such states, or (2) for research, development, or production of weapons of mass destruction.

**SEC. 1208.**[8] **LIMITATION RELATING TO OFFENSIVE BIOLOGICAL WARFARE PROGRAM OF RUSSIA.**

(a) LIMITATION.—Of the amount appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs that is available for the purpose stated in section 1202(a)(6), $60,000,000 may not be obligated or expended until the President submits to Congress either a certification as provided in subsection (b) or a certification as provided in subsection (c).

(b) CERTIFICATION WITH RESPECT TO OFFENSIVE BIOLOGICAL WARFARE PROGRAM OF RUSSIA.—A certification under this subsection is a certification by the President of each of the following:

(1) That Russia is in compliance with its obligations under the Biological Weapons Convention.

(2) That Russia has agreed with the United States and the United Kingdom on a common set of procedures to govern visits by officials of the United States and United Kingdom to military biological facilities of Russia, as called for under the Joint Statement on Biological Weapons issued by officials of the United States, the United Kingdom, and Russia on September 14, 1992.

(3) That visits by officials of the United States and United Kingdom to the four declared military biological facilities of Russia have occurred.

(c) ALTERNATIVE CERTIFICATION.—A certification under this subsection is a certification by the President that the President is unable to make a certification under subsection (b).

(d) USE OF FUNDS UPON ALTERNATIVE CERTIFICATION.—If the President makes a certification under subsection (c), the $60,000,000 specified in subsection (a)—

(1) shall not be available for the purpose stated in section 1202(a)(6); and

(2) shall be available for activities in Ukraine, Kazakhstan, and Belarus—

(A) for the elimination of strategic offensive weapons (in addition to the amount specified in section 1202(a)(1)); and

[7] Formerly at 22 U.S.C. 5955 note. Required a report on accounting for U.S. assistance. Sec. 1308(g)(1)(C) of Public Law 106–398 (114 Stat. 1654A–343) repealed this section. Sec. 1308 of that Act repealed several CTR reporting requirements and established a new, consolidated, report on activities and assistance under CTR programs.

[8] In a memorandum of April 1, 1996, the President delegated to the Secretary of State the authorities and duties vested in the President under this section, to be exercised in consultation with the Secretary of Defense (61 F.R. 26017; May 23, 1996).

(B) for nuclear infrastructure elimination (in addition to the amount specified in section 1202(a)(4)).

**SEC. 1209. LIMITATION ON USE OF FUNDS FOR CHEMICAL WEAPONS DESTRUCTION FACILITY.**

(a) LIMITATION.—Of the amount appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs that is available for planning and design of a chemical weapons destruction facility, not more than one-half of such amount may be obligated or expended until the President certifies to Congress the following:

(1) That the United States and Russia have completed a joint laboratory study to determine the feasibility of an appropriate technology for destruction of chemical weapons of Russia.

(2) That Russia is making reasonable progress, with the assistance of the United States (if necessary), toward the completion of a comprehensive implementation plan for managing and funding the dismantlement and destruction of Russia's chemical weapons stockpile.

(3) That the United States and Russia have made substantial progress toward resolution, to the satisfaction of the United States, of outstanding compliance issues under the 1989 Wyoming Memorandum of Understanding and the 1990 Bilateral Destruction Agreement.

(b) DEFINITIONS.—In this section:

(1) The term "1989 Wyoming Memorandum of Understanding" means the Memorandum of Understanding between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989.

(2) The term "1990 Bilateral Destruction Agreement" means the Agreement between the United States of America and the Union of Soviet Socialist Republics on destruction and nonproduction of chemical weapons and on measures to facilitate the multilateral convention on banning chemical weapons signed on June 1, 1990.

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## q. Cooperative Threat Reduction, Fiscal Year 1995

**Partial text of Public Law 103–337 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994; as amended by Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; and Public Law 106–398 [Floyd D. Spence National Defense Authorization Act for Fiscal Year 2000; H.R. 4205], 114 Stat. 1654, approved October 30, 2000**

AN ACT To authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1995".

* * * * * * *

### TITLE III—OPERATION AND MAINTENANCE

### Subtitle A—Authorization of Appropriations

**SEC. 301. OPERATION AND MAINTENANCE FUNDING.**

Funds are hereby authorized to be appropriated for fiscal year 1995 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

(1)–(18) * * *

(19) For Cooperative Threat Reduction programs, $400,000,000.[1]

(20) * * *

* * * * * * *

[1] Title II of the Department of Defense Appropriations Act, 1995 (Public Law 103–335; 108 Stat. 2606), provided the following:

"FORMER SOVIET UNION THREAT REDUCTION

"For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for providing incentives for demilitarization; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise; for supporting the demilitarization of military technologies and production infrastructure; $400,000,000, to remain available until expended: *Provided*, That of the funds appropriated under this heading, $10,000,000 shall be made available only for the continuing study, assessment, and identification of nuclear waste disposal by the former Soviet Union in the Arctic and North Pacific regions.".

# TITLE XII—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION

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**SEC. 1201.[2] COOPERATIVE THREAT REDUCTION PROGRAMS.**

For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs described in section 1203(b) of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 107 Stat. 1778; 22 U.S.C. 5952(b)).

**SEC. 1202. EXTENSION OF SEMIANNUAL REPORT ON COOPERATIVE THREAT REDUCTION PROGRAMS.**

Section 1207 of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160[3]; 107 Stat. 1782) is amended—
* * *

**SEC. 1203.**[4] * * * [Repealed—2000]

**SEC. 1204. REPORT ON CONTROL AND ACCOUNTABILITY OF MATERIAL RELATING TO WEAPONS OF MASS DESTRUCTION.**

The Secretary of Defense shall submit to Congress a report on progress being made in each state of the former Soviet Union that is a recipient of assistance under Cooperative Threat Reduction programs toward the development of an effective system of control and accountability for material related to weapons of mass destruction in that country. Under such a system, officials of the United States and of the recipient country should have an accurate accounting of the weapons of mass destruction in that country and the fissile and chemical materials from those weapons. The report shall be submitted not later than three months after the date of the enactment of this Act.

**SEC. 1205.**[5] * * * [Repealed—2000]

**SEC. 1206. FUNDING LIMITATIONS ON COOPERATIVE THREAT REDUCTION PROGRAM FOR FISCAL YEAR 1995.**

(a) PROGRAM AMOUNTS.—Of the amount authorized to be appropriated in section 301 for Cooperative Threat Reduction programs—

(1) not more than $60,000,000 may be obligated for the demilitarization of defense industries and the conversion of military technologies and capabilities into civilian activities;

(2) not more than $200,000,000 may be obligated for Weapons Dismantlement, Destruction, and Denuclearization;

(3) not more than $60,000,000 may be obligated for Safety and Security, Transportation, and Storage;

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[2] 22 U.S.C. 5952 note.

[3] Originally read "Public Law 103–60". Sec. 1504(a)(7)(A) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 513) corrected this section to read "Public Law 103–160".

[4] Sec. 1203 required a report on accounting for U.S. assistance. Sec. 1308(g)(1)(B) of Public Law 106–398 (114 Stat. 1654A–343) repealed this section. Sec. 1308 of that Act repealed several CTR reporting requirements and established a new, consolidated, report on activities and assistance under CTR programs.

[5] Formerly at 22 U.S.C. 5952 note. Pertained to multiyear planning, allied support; required a report on funding to Congress. Sec. 1308(g)(2) of Public Law 106–398 (114 Stat. 1654) repealed this section, "effective on the date the Secretary of Defense submits to Congress an updated version of the multiyear plans for fiscal year 2001 as described in subsection (h)" of that Act.

(4) not more than $40,000,000 may be obligated for Nonproliferation;

(5) not more than $20,000,000 may be obligated for Defense and Military-to-Military Contacts; and

(6) not more than $20,000,000 may be obligated for other authorized programs and activities.

(b) LIMITED AUTHORITY TO EXCEED INDIVIDUAL LIMITATION AMOUNTS.—(1) If the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may, subject to paragraph (2), obligate amounts for the purposes stated in any of the paragraphs of subsection (a) in excess of the amount specified for those purposes in that paragraph. However, the total amount obligated for the purposes stated in the paragraphs in subsection (a) may not by reason of the use of the authority provided in the preceding sentence exceed the sum of the amounts specified in those paragraphs.

(2) An obligation for the purposes stated in any of the paragraphs in subsection (a) in excess of the amount specified in that paragraph may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress a notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

**SEC. 1207. REPORT ON OFFENSIVE BIOLOGICAL WARFARE PROGRAM OF THE STATES OF THE FORMER SOVIET UNION.**

(a) FINDINGS.—Congress makes the following findings:

(1) The United States has identified nonproliferation of weapons of mass destruction as a high priority in the conduct of United States national security policy.

(2) The United States is seeking universal adherence to global regimes that control nuclear, chemical, and biological weapons and is promoting new measures that provide increased transparency of biological weapons-related activities and facilities in an effort to help deter violations of and enhance compliance with the Biological Weapons Convention.

(3) In early 1992, Russian President Boris Yeltsin indicated to former United States President George Bush that Russia still had an offensive biological weapons program.

(4) A United States Government report dated January 19, 1993, on arms control noncompliance noted that Russian declarations up to that date had dramatically underestimated the size, scope, and maturity of the former Soviet biological weapons program.

(5) Despite President Yeltsin's decree of April 11, 1993, stating that activities in violation of the Biological Weapons Convention are illegal, questions continue to arise regarding offensive biological weapons research, development, testing, production, and storage in Russia as well as in other countries.

(6) A United States Government report, dated June 23, 1994, states the following: "The United States has determined that the offensive biological warfare program that Russia inherited

from the Soviet Union violated the Biological Weapons Convention through at least March 1992. The Soviet offensive biological weapons program was massive, and included production, weaponization, and stockpiling. The status of the program since that time remains unclear and the U.S. remains concerned about the Russian biological warfare program.".

(7) The Joint Statement on Biological Weapons issued by officials of the United States, the United Kingdom, and Russia on September 14, 1992, confirmed the commitment of the three governments to full compliance with the Biological Weapons Convention and outlined steps designed to increase confidence in that commitment.

(8) The Presidents of Russia and the United States are scheduled to hold a summit meeting in Washington during the month of September 1994.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should continue to urge all signatories to the Biological Weapons Convention to comply fully with the terms of that convention and with other international agreements relating to the control of biological weapons;

(2) the President should keep the Congress fully and currently informed regarding any Russian activities related to offensive biological weapons;

(3) the President should continue to insist that the Russian Government complete the steps noted and agreed to in the Joint Statement on Biological Weapons issued by officials of the United States, the United Kingdom, and Russia on September 14, 1992;

(4) subsequent meetings of representatives of the United States, the United Kingdom, and Russia on biological weapons and the September 1994 summit meeting in Washington provide opportunities for the President to again emphasize the importance of resolving the issues related to compliance with the Biological Weapons Convention;

(5) in assessing the President's fiscal year 1996 budget request for foreign assistance funds for Russia, and for other programs and activities to provide assistance to Russia, including the Cooperative Threat Reduction programs, Congress will consider United States Government assessments of Russia's compliance with its obligations under the Biological Weapons Convention; and

(6) as the President encourages increased transparency of biological weapons-related activities and facilities to deter violations of, and enhance compliance with, the Biological Weapons Convention, the President should also take appropriate actions to ensure that the United States is prepared to counter the effects of use of biological weapons by others.

(c)[6] PRESIDENTIAL REPORTS.—Not later than February 1, 1995, not later than June 1, 1995, and not later than October 1, 1995, the President shall submit to Congress a report, in classified and

[6] In a memorandum of February 15, 1995, the President delegated the authority and functions laid out in sec. 1207(c) to the Secretary of State, in consultation with the Secretary of Defense (60 F.R. 10791; February 28, 1995).

unclassified forms, containing an assessment of the extent of compliance of the independent states of the former Soviet Union with the Biological Weapons Convention and other international agreements relating to the control of biological weapons.

(d) CONTENT OF REPORT.—The report shall include the following:

(1) MATTERS RELATED TO COMPLIANCE.—

(A) An evaluation of the extent of control and oversight by the government of the Russian Federation over the former Soviet military and dual civilian-military biological warfare programs.

(B) The extent, if any, of the biological warfare agent stockpile in any of the independent states of the former Soviet Union.

(C) The extent and scope, if any, of continued biological warfare research, development, testing, and production by such states, including the sites and types of activity at those sites.

(D) An evaluation of the effectiveness of possible delivery systems of biological weapons, including tube and rocket artillery, aircraft, and ballistic missiles.

(E) An assessment of measures taken by the Russian Government to complete the steps noted and agreed to in the 1992 Joint Statement on Biological Weapons referred to in subsection (b)(3), including a determination of the extent to which Russia has—

(i) agreed to permit visits to military and nonmilitary biological sites in order to attempt to resolve ambiguities;

(ii) provided information about biological weapons dismantlement accomplished to date, and further clarification of information provided in its United Nations Declarations regarding biological weapons;

(iii) been cooperative in exchanging information on a confidential, reciprocal basis concerning past offensive biological weapons programs not recorded in detail in its declarations to the United Nations;

(iv) cooperated in reviewing potential additional measures to monitor compliance with the Biological Weapons Convention and modalities for testing such measures;

(v) agreed to an examination of the physical infrastructure of its biological facilities to determine whether there is specific equipment or excess capacity inconsistent with their stated purpose;

(vi) helped identify ways to promote cooperation and investment in the conversion of biological weapons facilities; and

(vii) agreed to exchanges of scientists at biological facilities on a long-term basis.

(2) MATTERS RELATED TO UNITED STATES CAPABILITIES.—

(A) An evaluation of United States capabilities to detect and monitor biological warfare research, development, testing, production, and storage.

(B) On the basis of the assessment and evaluations referred to in other provisions of the report, recommendations by the Secretary of Defense and Chairman of the Joint Chiefs of Staff for the improvement of United States biological warfare defense and counter-measures.

(e) LIMITATION.—Of the amount authorized to be appropriated by section 301 for Cooperative Threat Reduction programs, $25,000,000 may not be obligated until the President submits to Congress the first report required under subsection (c).

**SEC. 1208. COORDINATION OF CERTAIN COOPERATIVE THREAT REDUCTION PROGRAMS.**

(a) MILITARY-TO-MILITARY CONTACT PROGRAMS.—(1) None of the funds authorized to be appropriated in section 301 for Cooperative Threat Reduction programs may be obligated for activities under a military-to-military contact program until the Secretary of Defense and the Secretary of State submit to Congress a joint report on the coordination of military-to-military contact programs and comparable activities carried out under their respective jurisdictions.

(2) The report shall cover the following programs and activities:

(A) Defense and military-to-military contact programs to be carried out using funds authorized to be appropriated in section 301 for Cooperative Threat Reduction programs.

(B) Military-to-military contacts and comparable activities that are authorized by section 168 of title 10, United States Code, as added by section 1316.

(C) Programs authorized under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.).

(3) The report shall include a discussion of how the programs and activities referred to in paragraph (2) are carried out to maximize—

(A) the effect of such programs and activities in enhancing United States foreign policy objectives; and

(B) cost-efficiency in the conduct of the programs and activities.

(b) REPORT.—Section 1207 of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 107 Stat. 1777; 22 U.S.C. 5956), is amended by adding at the end the following new paragraph: * * *

**SEC. 1209. SENSE OF CONGRESS CONCERNING SAFE AND SECURE DISMANTLEMENT OF SOVIET NUCLEAR ARSENAL.**

(a) FINDINGS.—Congress makes the following findings:

(1) It is a pressing national security challenge for the United States to expedite the safe and secure dismantlement of the nuclear arsenal of the former Soviet Union.

(2) In particular, it is essential to expedite the return of strategic nuclear warheads from Ukraine, Belarus, and Kazakhstan and to expedite the safe and secure dismantlement of the nuclear delivery vehicles of Ukraine, Belarus, and Kazakhstan.

(3) Leakage of nuclear materials and technology, and the continuing threat of emigration of scientists and technicians from the former Soviet nuclear weapons complex, pose a grave threat to United States national security and to international stability.

(4) Congress has authorized so-called "Nunn-Lugar" funds to enable the Department of Defense to carry out cooperative activities with states of the former Soviet Union to address the threats described in paragraphs (1), (2), and (3).

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) the Secretary of Defense and the Secretary of State should continue to give their serious attention to carrying out a coordinated strategy for addressing the urgent national security issues described in subsection (a);

(2) the United States should expedite the availability and effective application of so-called "Nunn-Lugar" funds;

(3) although activities conducted with those funds should, to the extent feasible, draw upon United States technology and expertise, the United States should work with local contractors in Belarus, Kazakhstan, Russia, and Ukraine when doing so would expedite more effective use of those funds; and

(4) efforts should be made to make the Science and Technology Centers in Moscow and Kiev, designed to slow the emigration of scientists and technicians from the former Soviet weapons complex, fully operational on an expedited basis.

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## r. Cooperative Threat Reduction Act of 1993

**Partial text of Public Law 103–160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 2401], 107 Stat. 1547 at 1777, approved November 30, 1993; as amended by Public Law 103–337 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994; Public Law 106–398 [Floyd D. Spence National Defense Authorization Act for Fiscal Year 2000; H.R. 4205], 114 Stat. 1654, approved October 30, 2000; Public Law 107–314 [Bob Stump National Defense Authorization Act for Fiscal Year 2003; H.R. 4546], 116 Stat. 2458, approved December 2, 2002; Public Law 110–53 [Implementing Recommendations of the 9/11 Commission Act of 2007; H.R. 1], 121 Stat. 266, approved August 3, 2007; and Public Law 110–181 [National Defense Authorization Act for Fiscal Year 2008; H.R. 4986], 122 Stat. 3, approved January 28, 2008**

AN ACT To authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

* * * * * * *

### TITLE III—OPERATION AND MAINTENANCE

### Subtitle A—Authorization of Appropriations

**SEC. 301. OPERATION AND MAINTENANCE FUNDING.**

Funds are hereby authorized to be appropriated for fiscal year 1994 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

(1)–(20) * * *

(21) For Former Soviet Union Threat Reduction, $400,000,000.[1]

* * * * * * *

[1] Title II of the Department of Defense Appropriations Act, 1994 (Public Law 103–139; 107 Stat. 1426), provided the following:

"FORMER SOVIET UNION THREAT REDUCTION

"For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for providing incentives for demilitarization; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for expansion of military-to-military contacts; for supporting the conversion of military technologies and capabilities into civilian activities; and for retraining military personnel of the former Soviet Union; $400,000,000, to remain available until expended: *Provided*, That of the funds appropriated under this heading, $10,000,000 shall be made available only for the continuing study, assessment, and identification of nuclear waste disposal by the former Soviet Union in the Arctic and North Pacific region: *Provided further*, That the transfer authority provided in section 9110(a) of the Department of Defense Appropriations Act, 1993, shall continued to be in effect during fiscal year 1994: *Provided further,* That any transfer made under the foregoing proviso in this paragraph shall be subject to the limitations and the reporting requirements stipulated in section 8006 of this Act: *Provided further,* That the Director of Central Intelligence shall report to the President and the Congressional defense, foreign affairs,

## TITLE XII—COOPERATIVE THREAT REDUCTION WITH STATES OF FORMER SOVIET UNION

**SEC. 1201.[2] SHORT TITLE.**

This title may be cited as the "Cooperative Threat Reduction Act of 1993".

**SEC. 1202.[3] FINDINGS ON COOPERATIVE THREAT REDUCTION.**

The Congress finds that it is in the national security interest of the United States for the United States to do the following:

(1) Facilitate, on a priority basis, the transportation, storage, safeguarding, and elimination of nuclear and other weapons of the independent states of the former Soviet Union, including—

(A) the safe and secure storage of fissile materials derived from the elimination of nuclear weapons;

(B) the dismantlement of (i) intercontinental ballistic missiles and launchers for such missiles, (ii) submarine-launched ballistic missiles and launchers for such missiles, and (iii) heavy bombers; and

(C) the elimination of chemical, biological and other weapons capabilities.

(2) Facilitate, on a priority basis, the prevention of proliferation of weapons (and components of weapons) of mass destruction and destabilizing conventional weapons of the independent states of the former Soviet Union and the establishment of verifiable safeguards against the proliferation of such weapons and components.

(3) Facilitate, on a priority basis, the prevention of diversion of weapons-related scientific expertise of the independent states of the former Soviet Union to terrorist groups or third world countries.

(4) Support (A) the demilitarization of the defense-related industry and equipment of the independent states of the former Soviet Union, and (B) the conversion of such industry and equipment to civilian purposes and uses.

(5) Expand military-to-military and defense contacts between the United States and the independent states of the former Soviet Union.

**SEC. 1203.[4] AUTHORITY FOR PROGRAMS TO FACILITATE COOPERATIVE THREAT REDUCTION.**

(a) IN GENERAL.—Notwithstanding any other provision of law, the President may conduct programs described in subsection (b) to

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and intelligence committees on the current status of intercontinental ballistic missile development and production in states eligible for assistance under this heading: *Provided further,* That none of the funds appropriated under this heading may be expended or transferred to an otherwise eligible recipient state if the President concludes, and notifies the Congressional defense, foreign affairs, and intelligence committees in a written report, that the potential recipient is currently engaged in the production of a new road mobile or fixed-site land based intercontinental ballistic missile armed with multiple nuclear re-entry vehicles.".

[2] 22 U.S.C. 5951 note.

[3] 22 U.S.C. 5951.

[4] 22 U.S.C. 5952. See also sec. 3131 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 617).

In a memorandum of January 29, 1994, the President delegated authorities and duties in sections 1203 through 1207 as follows:

"* * * I hereby delegate:

Continued

assist the independent states of the former Soviet Union in the demilitarization of the former Soviet Union. Any such program may be carried out only to the extent that the President determines that the program will directly contribute to the national security interests of the United States.

(b) AUTHORIZED PROGRAMS.—The programs referred to in subsection (a) are the following:

(1) Programs to facilitate the elimination, and the safe and secure transportation and storage, of nuclear, chemical, and other weapons and their delivery vehicles.

(2) Programs to facilitate the safe and secure storage of fissile materials derived from the elimination of nuclear weapons.

(3) Programs to prevent the proliferation of weapons, weapons components, and weapons-related technology and expertise.

(4) Programs to expand military-to-military and defense contacts.

(5) Programs to facilitate the demilitarization of defense industries and the conversion of military technologies and capabilities into civilian activities.

(6) Programs to assist in the environmental restoration of former military sites and installations when such restoration is necessary to the demilitarization or conversion programs authorized in paragraph (5).

(7) Programs to provide housing for former military personnel of the former Soviet Union released from military service in connection with the dismantlement of strategic nuclear weapons, when provision of such housing is necessary for dismantlement of strategic nuclear weapons and when no other funds are available for such housing.

(8) Other programs as described in section 212(b) of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 22 U.S.C. 2551 note) and section 1412(b) of the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102–484; 22 U.S.C. 5901 et seq.).

(c) UNITED STATES PARTICIPATION.—The programs described in subsection (b) should, to the extent feasible, draw upon United

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"1. to the Secretary of State the authority and duty vested in the President under section 1203(d) of the Cooperative Threat Reduction Act of 1993, Title XII of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160);

"2. to the Secretary of Defense the authorities and duties vested in the President under sections 1203(a), 1204, 1206, and 1207 of Public Law 103–160.

"The Secretary of Defense shall not exercise authority delegated by number 2 hereof with respect to any former Soviet republic unless the Secretary of State has exercised his authority and performed the duty delegated by number 1 hereof, as applicable, with respect to that former Soviet republic. The Secretary of Defense shall not obligated funds in exercise of authority delegated by number 2 hereof unless the Director of the Office of Management and Budget has made the determination that expenditures are to be counted as discretionary spending in the national defense budget (050), as applicable to the funds to be transferred." (59 F.R. 5929; February 9, 1994).

Sec. 1811(2) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53; 121 Stat. 492) repealed subsec. (d) of this section, which prohibited assistance to former states of the Soviet Union if the President did not certify that such states were meeting requirements listed in the subsection. For the text of former subsec. (d) and accompanying notes, see *Legislation on Foreign Relations Through 2005*, Vol. II–B, pp. 125–26. Sec. 1304(a)(2) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 412) contains a provision to strike out this already repealed subsection.

States technology and expertise, especially from the private sector of the United States.

**SEC. 1204.[5] DEMILITARIZATION ENTERPRISE FUND.**

(a) DESIGNATION OF FUND.—The President is authorized to designate a Demilitarization Enterprise Fund for the purposes of this section. The President may designate as the Demilitarization Enterprise Fund any organization that satisfies the requirements of subsection (e).

(b) PURPOSE OF FUND.—The purpose of the Demilitarization Enterprise Fund is to receive grants pursuant to this section and to use the grant proceeds to provide financial support under programs described in subsection (b)(5) for demilitarization of industries and conversion of military technologies and capabilities into civilian activities.

(c) GRANT AUTHORITY.—The President may make one or more grants to the Demilitarization Enterprise Fund.

(d) RISK CAPITAL FUNDING OF DEMILITARIZATION.—The Demilitarization Enterprise Fund shall use the proceeds of grants received under this section to provide financial support in accordance with subsection (b) through transactions as follows:

(1) Making loans.

(2) Making grants.

(3) Providing collateral for loan guaranties by the Export-Import Bank of the United States.

(4) Taking equity positions.

(5) Providing venture capital in joint ventures with United States industry.

(6) Providing risk capital through any other form of transaction that the President considers appropriate for supporting programs described in subsection (b)(5).

(e) ELIGIBLE ORGANIZATION.—An organization is eligible for designation as the Demilitarization Enterprise Fund if the organization—

(1) is a private, nonprofit organization;

(2) is governed by a board of directors consisting of private citizens of the United States; and

(3) provides assurances acceptable to the President that it will use grants received under this section to provide financial support in accordance with this section.

(f) OPERATIONAL PROVISIONS.—The following provisions of section 201 of the Support for East European Democracy (SEED) Act of 1989 (Public Law 101–179; 22 U.S.C. 5421) shall apply with respect to the Demilitarization Enterprise Fund in the same manner as such provisions apply to Enterprise Funds designated pursuant to subsection (d) of such section:

(1) Subsection (d)(5), relating to the private character of Enterprise Funds.

(2) Subsection (h), relating to retention of interest earned in interest bearing accounts.

(3) Subsection (i), relating to use of United States private venture capital.

[5] 22 U.S.C. 5953.

(4) Subsection (k), relating to support from Executive agencies.

(5) Subsection (l), relating to limitation on payments to Fund personnel.

(6) Subsections (m) and (n), relating to audits.

(7) Subsection (o), relating to record keeping requirements.

(8) Subsection (p), relating to annual reports.

In addition, returns on investments of the Demilitarization Enterprise Fund and other payments to the Fund may be reinvested in projects of the Fund.

(g) EXPERIENCE OF OTHER ENTERPRISE FUNDS.—To the maximum extent practicable, the Board of Directors of the Demilitarization Enterprise Fund should adopt for that Fund practices and procedures that have been developed by Enterprise Funds for which funding has been made available pursuant to section 201 of the Support for East European Democracy (SEED) Act of 1989 (Public Law 101–179; 22 U.S.C. 5421).

(h) CONSULTATION REQUIREMENT.—In the implementation of this section, the Secretary of State and the Administrator of the Agency for International Development shall be consulted to ensure that the Articles of Incorporation of the Fund (including provisions specifying the responsibilities of the Board of Directors of the Fund), the terms of United States Government grant agreements with the Fund, and United States Government oversight of the Fund are, to the maximum extent practicable, consistent with the Articles of Incorporation of, the terms of grant agreements with, and the oversight of the Enterprise Funds established pursuant to section 201 of the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5421) and comparable provisions of law.

(i) INITIAL IMPLEMENTATION.—The Board of Directors of the Demilitarization Enterprise Fund shall publish the first annual report of the Fund not later than January 31, 1995.

(j) TERMINATION OF DESIGNATION.—A designation of an organization as the Demilitarization Enterprise Fund under subsection (a) shall be temporary. When making the designation, the President shall provide for the eventual termination of the designation.

**SEC. 1205.[6] FUNDING FOR FISCAL YEAR 1994.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds authorized to be appropriated under section 301(21) shall be available for cooperative threat reduction with states of the former Soviet Union under this title.

(b) LIMITATIONS.—(1) Not more than $15,000,000 of the funds referred to in subsection (a) may be made available for programs authorized in subsection (b)(6) of section 1203.

(2) Not more than $20,000,000 of such funds may be made available for programs authorized in subsection (b)(7) of section 1203.

(3) Not more than $40,000,000 of such funds may be made available for grants to the Demilitarization Enterprise Fund designated pursuant to section 1204 and for related administrative expenses.

(c) AUTHORIZATION OF EXTENSION OF AVAILABILITY OF PRIOR YEAR FUNDS.—To the extent provided in appropriations Acts, the authority to transfer funds of the Department of Defense provided

[6] 22 U.S.C. 5954.

in section 9110(a) of the Department of Defense Appropriations Act, 1993 (Public Law 102–396; 106 Stat. 1928), and in section 108 of Public Law 102–229 (105 Stat. 1708) shall continue to be in effect during fiscal year 1994.

**SEC. 1206.[7] PRIOR NOTICE TO CONGRESS OF OBLIGATION OF FUNDS.**

(a) NOTICE OF PROPOSED OBLIGATION.—Not less than 15 days before obligation of any funds for programs under section 1203, the President shall transmit to the appropriate congressional committees as defined in section 1208 a report on the proposed obligation. Each such report shall specify—

(1) the activities and forms of assistance for which the President plans to obligate such funds;

(2) the amount of the proposed obligation; and

(3) the projected involvement of the departments and agencies of the United States Government and the private sector of the United States.

(b) REPORTS ON DEMILITARIZATION OR CONVERSION PROJECTS.—Any report under subsection (a) that covers proposed demilitarization or conversion projects under paragraph (5) or (6) of section 1203(b) shall contain additional information to assist the Congress in determining the merits of the proposed projects. Such information shall include descriptions of—

(1) the facilities to be demilitarized;

(2) the types of activities conducted at those facilities and of the types of nonmilitary activities planned for those facilities;

(3) the forms of assistance to be provided by the United States Government and by the private sector of the United States;

(4) the extent to which military activities and production capability will consequently be eliminated at those facilities; and

(5) the mechanisms to be established for monitoring progress on those projects.

**SEC. 1207.[8]** * * * [Repealed—2000]

**SEC. 1208.[9] APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.**

In this title, the term "appropriate congressional committees" means—

(1) the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs[10] of the House of Representatives, and the Committees on Appropriations of the House and the Senate, wherever the account, budget activity, or program is funded from appropriations made under the international affairs budget function (150);

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[7] 22 U.S.C. 5955.

[8] Formerly at 22 U.S.C. 5956. Required a semiannual report on accounting for U.S. assistance. Sec. 1308(g)(1)(A) of Public Law 106–398 (114 Stat. 1654A–343) repealed this section. Sec. 1308 of that Act repealed several CTR reporting requirements and established a new, consolidated, report on activities and assistance under CTR programs.

[9] 22 U.S.C. 5957.

[10] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(2) the Committees on Armed Services[11] and the Committees on Appropriations of the Senate and the House of Representatives, wherever the account, budget activity, or program is funded from appropriations made under the national defense budget function (050); and

(3) the committee to which the specified activities of section 1203, if the subject of separate legislation, would be referred under the rules of the respective House of Congress.

**SEC. 1209.[12] AUTHORIZATION FOR ADDITIONAL FISCAL YEAR 1993 ASSISTANCE TO THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for fiscal year 1993 for "Operation and Maintenance, Defense Agencies" the additional sum of $979,000,000, to be available for the purposes of providing assistance to the independent states of the former Soviet Union.

(b) AUTHORIZATION OF TRANSFER OF FUNDS.—The Secretary of Defense may, to the extent provided in appropriations Acts, transfer from the account "Operation and Maintenance, Defense Agencies" for fiscal year 1993 a sum not to exceed the amount appropriated pursuant to the authorization in subsection (a) to—

(1) other accounts of the Department of Defense for the purpose of providing assistance to the independent states of the former Soviet Union; or

(2) appropriations available to the Department of State and other agencies of the United States Government for the purpose of providing assistance to the independent states of the former Soviet Union for programs that the President determines will increase the national security of the United States.

(c) ADMINISTRATIVE PROVISIONS.—(1) Amounts transferred under subsection (b) shall be available subject to the same terms and conditions as the appropriations to which transferred.

(2) The authority to make transfers pursuant to this section is in addition to any other transfer authority of the Department of Defense.

(d) COORDINATION OF PROGRAMS.—The President shall coordinate the programs described in subsection (b) with those authorized in the other provisions of this title and in the provisions of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Public Law 102–511) so as to optimize the contribution such programs make to the national interests of the United States.

[11] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

[12] 22 U.S.C. 5958.

## s. Freedom for Russia and Emerging Eurasian Democracies and Open Markets (FREEDOM) Support Act of 1992

**Partial text of Public Law 102–511 [S. 2532], 106 Stat. 3320, approved October 24, 1992; as amended by Public Law 105–277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998**

AN ACT To support freedom and open markets in the independent states of the former Soviet Union, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1.[1] SHORT TITLES.**

This Act may be cited as the "Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992" or the "FREEDOM Support Act".

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## TITLE V—NONPROLIFERATION AND DISARMAMENT PROGRAMS AND ACTIVITIES

**SEC. 501.[2] FINDINGS.**

The Congress finds that it is in the national security interest of the United States—

(1) to facilitate, on a priority basis—

(A) the transportation, storage, safeguarding, and destruction of nuclear and other weapons of mass destruction of the independent states of the former Soviet Union;

(B) the prevention of proliferation of weapons of mass destruction and destabilizing conventional weapons of the independent states, and the establishment of verifiable safeguards against the proliferation of such weapons;

(C) the prevention of diversion of weapons-related scientific expertise of the former Soviet Union to terrorist groups or third countries; and

(D) other efforts designed to reduce the military threat from the former Soviet Union;

(2) to support the conversion of the massive defense-related industry and equipment of the independent states of the former Soviet Union for civilian purposes and uses; and

(3) to expand military-to-military contacts between the United States and the independent states.

[1] 22 U.S.C. 5801 note.
[2] 22 U.S.C. 5851.

**SEC. 502.[3] ELIGIBILITY.**

Funds may be obligated for a fiscal year for assistance or other programs or activities for an independent state of the former Soviet Union under sections 503 and 504 only if the President has certified to the Congress,[4] during that fiscal year, that such independent state is committed to—

(1) making a substantial investment of its resources for dismantling or destroying such weapons of mass destruction, if that independent state has an obligation under a treaty or other agreement to destroy or dismantle any such weapons;

(2) forgoing any military modernization program that exceeds legitimate defense requirements and forgoing the replacement of destroyed weapons of mass destruction;

(3) forgoing any use in new nuclear weapons of fissionable or other components of destroyed nuclear weapons; and

(4) facilitating United States verification of any weapons destruction carried out under section 503(a) or 504(a) of this Act or section 212 of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 22 U.S.C. 2551 note).

**SEC. 503.[5] NONPROLIFERATION AND DISARMAMENT ACTIVITIES IN THE INDEPENDENT STATES.**

(a) AUTHORIZATION.—The President is authorized[4] to promote bilateral and multilateral nonproliferation and disarmament activities—

(1) by supporting the dismantlement and destruction of nuclear, biological, and chemical weapons, their delivery systems,

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[3] 22 U.S.C. 5852. Sec. 1310 of Public Law 106–65 (113 Stat. 795) provided the following:

"**SEC. 1310. LIMITATION ON USE OF FUNDS UNTIL SUBMISSION OF CERTIFICATION.**

"No funds appropriated for fiscal year 1999 for Cooperative Threat Reduction programs and remaining available for obligation or expenditure may be obligated or expended for assistance for any country under a Cooperative Threat Reduction Program until the President resubmits to Congress an updated certification under section 1203(d) of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 22 U.S.C. 5952(d)), section 1412(d) of the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102–484; 22 U.S.C. 5902(d)), and section 502 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Public Law 102–511; 22 U.S.C. 5852).".

In memoranda dated January 10, 2003 (68 F.R. 2419; January 17, 2003), November 7, 2003 (68 F.R. 65383; November 20, 2003), and December 6, 2004 (69 F.R. 74933; December 14, 2004), for the Secretary of State, the President certified under sec. 1306 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (title XIII of division A of Public Law 107–314; 116 Stat. 2458) that a waiver of the requirements of sec. 1203(d) of the Cooperative Threat Reduction Act of 2003 (22 U.S.C. 5952(d)) and sec. 502 of this Act with regard to the Russian Federation for fiscal years 2003, 2004, and 2005 was justified. In memoranda dated December 30, 2003 (69 F.R. 2479; January 16, 2004), and December 14, 2004 (70 F.R. 1; January 3, 2005), for the Secretary of State, the President made the same certification with regard to the Republic of Uzbekistan for fiscal years 2004 and 2005.

[4] In a memorandum of December 30, 1992 (58 F.R. 3193; January 8, 1993), for the Secretaries of State and Defense, and the Director, OMB, the President delegated authority established in sec. 502 of the FREEDOM Support Act and in sec. 1412(d) of Public Law 102–484 to the Secretary of State. The President further delegated authority in secs. 1412(a), 1431, and 1432 of Public Law 102–484, and in secs. 503 and 508 of the FREEDOM Support Act to the Secretary of Defense. That memorandum further provided that: "The Secretary of Defense shall not exercise authority delegated * * * with respect to any former Soviet republic unless the Secretary of State has exercised his authority and performed the duty delegated * * * with respect to that former Soviet Republic. The Secretary of Defense shall not obligated funds in the exercise of authority delegated * * * unless the Director of the Office of Management and Budget has determined that expenditures during fiscal year 1993 pursuant to such obligation shall be counted against the defense category of discretionary spending limits for that fiscal year (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of Part C of the Balanced Budget and Emergency Deficit Control Act of 1985.".

[5] 22 U.S.C. 5853.

and conventional weapons of the independent states of the former Soviet Union;

(2) by supporting bilateral and multilateral efforts to halt the proliferation of nuclear, biological, and chemical weapons, their delivery systems, related technologies, and other weapons of the independent states, including activities such as—

(A) the storage, transportation, and safeguarding of such weapons, and

(B) the purchase, barter, or other acquisition of such weapons or materials derived from such weapons;

(3) by establishing programs for safeguarding against the proliferation of nuclear, biological, chemical, and other weapons of the independent states;

(4) by establishing programs for preventing diversion of weapons-related scientific and technical expertise of the independent states to terrorist groups or to third countries;

(5)[6] by establishing science and technology centers in the independent states for the purpose of engaging weapons scientists and engineers of the independent states (in particular those who were previously involved in the design and production of nuclear, biological, and chemical weapons) in productive, nonmilitary undertakings; and

(6) by establishing programs for facilitating the conversion of military technologies and capabilities and defense industries of the former Soviet Union into civilian activities.

(b) FUNDING PRIORITIES.—Priority in carrying out this section shall be given to the activities described in paragraphs (1) through (5) of subsection (a).

(c) USE OF DEFENSE FUNDS.—

(1) AUTHORIZATION.—In recognition of the direct contributions to the national security interests of the United States of the programs and activities authorized by subsection (a), the

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[6] Sec. 1138 of the Arms Control and Nonproliferation Act of 1999 (title XI of division B of appendix G of Public Law 106–113; 113 Stat. 1501A–496) provided as follows:

"(a) AUTHORIZATION.—For fiscal year 2001 and subsequent fiscal years, funds made available under 'Nonproliferation, Antiterrorism, Demining, and Related Programs' accounts in annual foreign operations appropriations Acts are authorized to be available for science and technology centers in the independent states of the former Soviet Union assisted under section 503(a)(5) of the FREEDOM Support Act (22 U.S.C. 5853(a)(5)) or section 1412(b)(5) of the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102–484; 22 U.S.C. 5901 et seq.), including the use of those and other funds by any Federal agency having expertise and programs related to the activities carried out by those centers, including the Departments of Agriculture, Commerce, and Health and Human Services and the Environmental Protection Agency.

"(b) AVAILABILITY OF FUNDS.—Amounts made available under any provision of law for the activities described in subsection (a) shall be available until expended and may be used notwithstanding any other provision of law."

Sec. 1139 of the Arms Control and Nonproliferation Act of 1999 further provided as follows:

"(a) IN GENERAL.—Support for science and technology centers in the independent states of the former Soviet Union, as authorized by section 503(a)(5) of the FREEDOM Support Act (22 U.S.C. 5853(a)(5)) and section 1412(b) of the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102–484, 22 U.S.C. 5901 et seq.), is authorized for activities described in subsection (b) to support the redirection of former Soviet weapons scientists, especially those with expertise in weapons of mass destruction (nuclear, radiological, chemical, biological), missile and other delivery systems, and other advanced technologies with military applications.

"(b) ACTIVITIES SUPPORTED.—Activities supported under subsection(a) include—

"(1) any research activity involving the participation of former Soviet weapons scientists and civilian scientists and engineers, if the participation of the weapons scientists predominates; and

"(2) any program of international exchanges that would provide former Soviet weapons scientists exposure to, and the opportunity to develop relations with, research and industry partners.".

President is authorized to make available for use in carrying out those programs and activities, in addition to amounts otherwise available for such purposes, funds made available pursuant to sections 108 and 109 of Public Law 102–229 or under the amendments made by section 506(a) of this Act.

(2) LIMITATION.—Funds described in paragraph (1) may not be obligated for programs and activities under subsection (a) unless the Director of the Office of Management and Budget has determined that expenditures during fiscal year 1993 pursuant to such obligation shall be counted against the defense category of the discretionary spending limits for that fiscal year (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

**SEC. 504.[7] NONPROLIFERATION AND DISARMAMENT FUND.**

(a) AUTHORIZATION.—The President is authorized to promote bilateral and multilateral nonproliferation and disarmament activities—

(1) by supporting the dismantlement and destruction of nuclear, biological, and chemical weapons, their delivery systems, and conventional weapons;

(2) by supporting bilateral and multilateral efforts to halt the proliferation of nuclear, biological, and chemical weapons, their delivery systems, related technologies, and other weapons, including activities such as—

(A) the storage, transportation, and safeguarding of such weapons, and

(B) the purchase, barter, or other acquisition of such weapons or materials derived from such weapons;

(3) by establishing programs for safeguarding against the proliferation of nuclear, biological, chemical, and other weapons of the independent states of the former Soviet Union;

(4) by establishing programs for preventing diversion of weapons-related scientific and technical expertise of the independent states to terrorist groups or to third countries;

(5) by establishing science and technology centers in the independent states for the purpose of engaging weapons scientists and engineers of the independent states (in particular those who were previously involved in the design and production of nuclear, biological, and chemical weapons) in productive, nonmilitary undertakings; and

(6) by establishing programs for facilitating the conversion of military technologies and capabilities and defense industries of the former Soviet Union into civilian activities.

(b) FUNDING PRIORITIES.—Priority in carrying out this section shall be given to the activities described in paragraphs (1) through (5) of subsection (a).

(c) USE OF SECURITY ASSISTANCE FUNDS.—

(1) AUTHORIZATION.—In recognition of the direct contributions to the national security interests of the United States of the programs and activities authorized by subsection (a), the President is authorized to make available for use in carrying

[7] 22 U.S.C. 5854.

out those programs and activities, in addition to amounts otherwise available for such purposes, up to $100,000,000 of security assistance funds for fiscal year 1993.

(2) DEFINITION.—As used in paragraph (1), the term "security assistance funds" means funds made available for assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the Economic Support Fund) or assistance under section 23 of the Arms Export Control Act (relating to the "Foreign Military Financing Program").

(3) EXEMPTION FROM CERTAIN RESTRICTIONS.—Section 531(e) of the Foreign Assistance Act of 1961, and any provision that corresponds to section 510 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (relating to the prohibition on financing exports of nuclear equipment, fuel, and technology), shall not apply with respect to funds used pursuant to this subsection.

**SEC. 505.[8] LIMITATIONS ON DEFENSE CONVERSION AUTHORITIES.**

Notwithstanding any other provision of law (including any other provision of this Act), funds may not be obligated in any fiscal year for purposes of facilitating the conversion of military technologies and capabilities and defense industries of the former Soviet Union into civilian activities, as authorized by sections 503(a)(6) and 504(a)(6) or any other provision of law, unless the President has previously obligated in the same fiscal year an amount equal to or greater than that amount of funds for defense conversion and defense transition activities in the United States. For purposes of this section, the term "defense conversion and defense transition activities in the United States" means those United States Government funded programs whose primary purpose is to assist United States private sector defense workers, United States companies that manufacture or otherwise provide defense goods or services, or United States communities adversely affected by reductions in United States defense spending, such as programs funded through the Office of Economic Adjustment in the Department of Defense or through[9] the Economic Development Administration.

**SEC. 506.[10] SOVIET WEAPONS DESTRUCTION.**

(a)[11] ADDITIONAL FUNDING.—

(1) AUTHORIZATION AMOUNT.—Section 221(a) of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 22 U.S.C. 2551 note) is amended by striking out "$400,000,000" and inserting in lieu thereof "$800,000,000".

(2) AUTHORIZATION PERIOD.—Section 221(e) of such Act is amended—

(A) by inserting "for fiscal year 1992 or fiscal year 1993" after "under part B";

(B) by inserting "for that fiscal year" after "for that program"; and

[8] 22 U.S.C. 5855.

[9] Sec. 405(d)(20) of sec. 101(f) of Public Law 105–277 (112 Stat. 2681–422) struck out ", through the Defense Conversion Adjustment Program (as authorized by the Job Training Partnership Act), or through" and inserted in lieu thereof "or through".

[10] 22 U.S.C. 5856.

[11] Sec. 1421 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2565) made amendments identical to those in subsecs. (a) and (b).

(C) by striking out "for fiscal year 1992" and inserting in lieu thereof "for that fiscal year".

(b)[11] TECHNICAL REVISIONS TO PUBLIC LAW 102–229.—Public Law 102–229 is amended—

(1) in section 108 (105 Stat. 1708), by striking out "contained in H.R. 3807, as passed the Senate on November 25, 1991" and inserting in lieu thereof "(title II of Public Law 102–228)"; and

(2) in section 109 (105 Stat. 1708)—

(A) by striking out "H.R. 3807, as passed the Senate on November 25, 1991" and inserting in lieu thereof "Public Law 102–228 (105 Stat. 1696)"; and

(B) by striking out "of H.R. 3807".

(c) AVOIDANCE OF DUPLICATIVE AMENDMENTS.—The amendments made by this section shall not be effective if the National Defense Authorization Act for Fiscal Year 1993 enacts an amendment to section 221(a) of the Soviet Nuclear Threat Reduction Act of 1991 that authorizes the transfer of an amount that is the same or greater than the amount that is authorized by the amendment made by subsection (a)(1) of this section and enacts amendments identical to those in subsections (a)(2) and (b) of this section.[11] If that Act enacts such amendments, sections 503 and 508 of this Act shall be deemed to apply with respect to the funds made available under such amendments.

**SEC. 507.[12] WAIVER OF CERTAIN PROVISIONS.**

(a) IN GENERAL.—Funds made available for fiscal year 1993 under sections 503 and 504 to provide assistance or otherwise carry out programs and activities with respect to the independent states of the former Soviet Union under those sections may be used notwithstanding any other provision of law, other than the provisions cited in subsection (b).

(b) EXCEPTIONS.—Subsection (a) does not apply with respect to—

(1) this title; and

(2) section 1341 of title 31, United States Code (commonly referred to as the "Anti-Deficiency Act"), the Congressional Budget and Impoundment Control Act of 1974, the Balanced Budget and Emergency Deficit Control Act of 1985, and the Budget Enforcement Act of 1990.[13]

**SEC. 508.[14] NOTICE AND REPORTS TO CONGRESS.**

(a) NOTICE OF PROPOSED OBLIGATIONS.—Not less than 15 days before obligating any funds under section 503 or 504 or the amendments made by section 506(a), the President shall transmit to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the appropriate congressional committees a report on the proposed obligation.[4] Each such report shall specify—

(1) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligations; and

[12] 22 U.S.C. 5857.

[13] Public Law 97–258 (96 Stat. 877 at 923), Public Law 93–344 (88 Stat. 297), Public Law 99–177 (99 Stat. 1037), and title XIII of Public Law 101–508 (104 Stat. 1388–573), respectively.

[14] 22 U.S.C. 5858.

(2) the activities and forms of assistance for which the President plans to obligate such funds.

(b) SEMIANNUAL REPORT.—Not later than April 30, 1993, and not later than October 30, 1993, the President shall transmit to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the appropriate congressional committees a report on the activities carried out under sections 503 and 504 and the amendments made by section 506(a). Each such report shall set forth, for the preceding 6–month period and cumulatively, the following:

(1) The amounts expended for such activities and the purposes for which they were expended.

(2) The source of the funds obligated for such activities, specified by program.

(3) A description of the participation of all United States Government departments and agencies in such activities.

(4) A description of the activities carried out and the forms of assistance provided.

(5) Such other information as the President considers appropriate to fully inform the Congress concerning the operation of the programs and activities carried out under sections 503 and 504 and the amendments made by section 506(a).

(c) APPROPRIATE CONGRESSIONAL COMMITTEES.—As used in this section—

(1) the term "appropriate congressional committees" means—

(A) the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs [15] of the House of Representatives, and the Committees on Appropriations of the House and the Senate, wherever the account, budget activity, or program is funded from appropriations made under the international affairs budget function (150);

(B) the Committees on Armed Services [16] and the Committees on Appropriations of the Senate and the House of Representatives, wherever the account, budget activity, or program is funded from appropriations made under the national defense budget function (050); and

(2) the committee to which the specified activities of section 503(a) or 504(a) or subtitle B of the Soviet Nuclear Threat Reduction Act of 1991 (as the case may be), if the subject of separate legislation, would be referred, under the rules of the respective House of Congress.

**SEC. 509.[17] INTERNATIONAL NONPROLIFERATION INITIATIVE.**

(a) ASSISTANCE FOR INTERNATIONAL NONPROLIFERATION ACTIVITIES.—Subject to the limitations and requirements provided in this section, during fiscal year 1993 the Secretary of Defense, under the guidance of the President, may provide assistance to support international nonproliferation activities.

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[15] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[16] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

[17] 22 U.S.C. 5859.

(b) ACTIVITIES FOR WHICH ASSISTANCE MAY BE PROVIDED[18].—Activities for which assistance may be provided under this section are activities such as the following:

(1) Activities carried out by the International Atomic Energy Agency (IAEA) that are designed to ensure more effective safeguards against nuclear proliferation and more aggressive verification of compliance with the Treaty on the Non-Proliferation of Nuclear Weapons, done on July 1, 1968.

(2) Activities of the On-Site Inspection Agency in support of the United Nations Special Commission on Iraq.

(3) Collaborative international nuclear security and nuclear safety projects to combat the threat of nuclear theft, terrorism, or accidents, including joint emergency response exercises, technical assistance, and training.

(4) Efforts to improve international cooperative monitoring of nuclear proliferation through joint technical projects and improved intelligence sharing.

(c) FORM OF ASSISTANCE.—(1) Assistance under this section may include funds and in-kind contributions of supplies, equipment, personnel, training, and other forms of assistance.

(2) Assistance under this section may be provided to international organizations in the form of funds only if the amount in the "Contributions to International Organizations" account of the Department of State is insufficient or otherwise unavailable to meet the United States fair share of assessments for international nuclear nonproliferation activities.

(3) No amount may be obligated for an expenditure under this section unless the Director of the Office of Management and Budget determines that the expenditure will be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(4) No assistance may be furnished under this section unless the Secretary of Defense determines and certifies to the Congress 30 days in advance that the provision of such assistance—

(A) is in the national security interest of the United States; and

(B) will not adversely affect the military preparedness of the United States.

(5) The authority to provide assistance under this section in the form of funds may be exercised only to the extent and in the amounts provided in advance in appropriations Act.

(d) SOURCES OF ASSISTANCE.—(1) Funds provided as assistance under this section shall be derived from amounts made available to the Department of Defense for fiscal year 1993 or from balances in working capital accounts of the Department of Defense.

(2) Supplies and equipment provided as assistance under this section may be provided, by loan or donation, from existing stocks of the Department of Defense and the Department of Energy.

(3) The total amount of the assistance provided in the form of funds under this section may not exceed $40,000,000. Of such

[18] Catchline transcribed with capitalization as enrolled.

amount, not more than $20,000,000 may be used for the activities of the On-Site Inspection agency in support of the United Nations Special Commission on Iraq.

(4) Not less than 30 days before obligating any funds to provide assistance under this section, the Secretary of Defense shall transmit to the committees of Congress named in subsection (e)(2) a report on the proposed obligation. Each such report shall specify—

(A) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

(B) the activities and forms of assistance for which the Secretary of Defense plans to obligate the funds.

(e) QUARTERLY REPORT.—(1) Not later than 30 days after the end of each quarter of fiscal year 1993, the Secretary of Defense shall transmit to the committees of Congress named in paragraph (2) a report of the activities to reduce the proliferation threat carried out under this section. Each report shall set forth (for the preceding quarter and cumulatively)—

(A) the amounts spent for such activities and the purposes for which they were spent;

(B) a description of the participation of the Department of Defense and the Department of Energy and the participation of other Government agencies in those activities; and

(C) a description of the activities for which the funds were spent.

(2) The committees of Congress to which reports under paragraph (1) and under subsection (d)(2) are to be transmitted are—

(A) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Relations of the Senate; and

(B) the Committee on Armed Services, the Committee on Appropriations, the Committee on Foreign Affairs, and the Committee on Energy and Commerce of the House of Representatives.[19]

(f) AVOIDANCE OF DUPLICATIVE AUTHORIZATIONS.—This section shall not apply if the National Defense Authorization Act for Fiscal Year 1993 enacts the same authorities and requirements as are contained in this section and authorizes the appropriation of the same (or a greater) amount to carry out such authorities.

[19] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(4) of that Act provided that references to the Committee on Energy and Commerce shall be treated as referring to the Committee on Commerce. Sec. 1(c)(1) of that Act (110 Stat. 187) further provided that any reference to the House Committee on Energy and Commerce shall be treated as referring to (1) the Committee on Agriculture in the case of a provision relating to inspection of seafood or seafood products; (2) the Committee on Banking and Financial Services in the case of a provision relating to bank capital markets activities or depository institution securities; or (3) the Committee on Transportation and Infrastructure in the case of a provision relating to railroads and railway labor issues. Finally, sec. 1(a)(5) of that Act (109 Stat. 186) provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

**SEC. 510.[20] REPORT ON SPECIAL NUCLEAR MATERIALS.**

Not later than 180 days after the date of enactment of this Act, the Secretary of State shall prepare, in consultation with the Secretary of Defense and the Secretary of Energy, and shall transmit to the Congress a report on the possible alternatives for the ultimate disposition of special nuclear materials of the former Soviet Union. This report shall include—

(1) a cost-benefit analysis comparing (A) the relative merits of the indefinite storage and safeguarding of such materials in the independent states of the former Soviet Union and (B) its acquisition by the United States by purchase, barter, or other means;

(2) a discussion of relevant issues such as the protection of United States uranium producers from dumping, the relative vulnerability of these stocks of special nuclear materials to illegal proliferation, and the potential electrical and other savings associated with their being made available in the fuel cycle in the United States; and

(3) a discussion of how highly enriched uranium stocks could be diluted for reactor fuel.

**SEC. 511.[21] RESEARCH AND DEVELOPMENT FOUNDATION.**

(a) ESTABLISHMENT.—The Director of the National Science Foundation (hereinafter in this section referred to as the "Director") is authorized to establish an endowed, nongovernmental, nonprofit foundation (hereinafter in this section referred to as the "Foundation") in consultation with the Director of the National Institute of Standards and Technology.

(b) PURPOSES.—The purposes of the Foundation shall be the following:

(1) To provide productive research and development opportunities within the independent states of the former Soviet Union that offer scientists and engineers alternatives to emigration and help prevent the dissolution of the technological infrastructure of the independent states.

(2) To advance defense conversion by funding civilian collaborative research and development projects between scientists and engineers in the United States and in the independent states of the former Soviet Union.

(3) To assist in the establishment of a market economy in the independent states of the former Soviet Union by promoting, identifying, and partially funding joint research, development, and demonstration ventures between United States businesses and scientists, engineers, and entrepreneurs in those independent states.

(4) To provide a mechanism for scientists, engineers, and entrepreneurs in the independent states of the former Soviet Union to develop an understanding of commercial business practices by establishing linkages to United States scientists, engineers, and businesses.

(5) To provide access for United States businesses to sophisticated new technologies, talented researchers, and potential

[20] 22 U.S.C. 5860.
[21] 22 U.S.C. 5861.

new markets within the independent states of the former Soviet Union.

(c) FUNCTIONS.—In carrying out its purposes, the Foundation shall—

(1) promote and support joint research and development projects for peaceful purposes between scientists and engineers in the United States and independent states of the former Soviet Union on subjects of mutual interest; and'

(2) seek to establish joint nondefense industrial research, development, and demonstration activities through private sector linkages which may involve participation by scientists and engineers in the university or academic sectors, and which shall include some contribution from industrial participants.

(d) FUNDING.—

(1) USE OF CERTAIN DEPARTMENT OF DEFENSE FUNDS.—(A) To the extent funds appropriated to carry out subtitle E of title XIV of the National Defense Authorization Act for Fiscal Year 1993 (relating to joint research and development programs with the independent states of the former Soviet Union) are otherwise available for such purpose, such funds may be made available to the Director for use by the Director in establishing the endowment of the Foundation and otherwise carrying out this section.

(B) For each fiscal year after fiscal year 1993, not more than 50 percent of the funds made available to the Foundation by the United States Government may be funds appropriated in the national defense budget function (function 050).

(2) CONTRIBUTION TO ENDOWMENT BY PARTICIPATING INDEPENDENT STATES.—As a condition of participation in the Foundation, an independent state of the former Soviet Union must make a minimum contribution to the endowment of the Foundation, as determined by the Director, which shall reflect the ability of the independent state to make a financial contribution and its expected level of participation in the Foundation's programs.

(3) DEBT CONVERSIONS.—To the extent provided in advance by appropriations Acts, local currencies or other assets resulting from government-to-government debt conversions may be made available to the Foundation. For purposes of this paragraph, the term "debt conversion" means an agreement whereby a country's government-to-government or commercial external debt burden is exchanged by the holder for local currencies, policy commitments, other assets, or other economic activities, or for an equity interest in an enterprise theretofore owned by the debtor government.

(4) LOCAL CURRENCIES.—In addition to other uses provided by law, and subject to agreement with the foreign government, local currencies generated by United States assistance programs may be made available to the Foundation.

(5) INVESTMENT OF GOVERNMENT ASSISTANCE.—The Foundation may invest any revenue provided to it through United States Government assistance, and any interest earned on such investment may be used only for the purpose for which the assistance was provided.

(6) OTHER FUNDS FROM GOVERNMENT AND NONGOVERNMENTAL SOURCES.—The Foundation may accept such other funds as may be provided to it by Government agencies or nongovernmental entities.

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## t. Former Soviet Union Demilitarization Act of 1992

**Partial text of Public Law 102–484 [National Defense Authorization Act for Fiscal Year 1993; H.R. 5006], 106 Stat. 2315, approved October 23, 1992; as amended by Public Law 103–160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 2401], 107 Stat. 1547, approved November 30, 1993; and Public Law 103–337 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994**

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## TITLE XIV—DEMILITARIZATION OF THE FORMER SOVIET UNION

### Subtitle A—Short Title

**SEC. 1401.[1] SHORT TITLE.**

This title may be cited as the "Former Soviet Union Demilitarization Act of 1992".

### Subtitle B—Findings and Program Authority

**SEC. 1411.[2] DEMILITARIZATION OF THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.**

The Congress finds that it is in the national security interest of the United States—

(1) to facilitate, on a priority basis—

(A) the transportation, storage, safeguarding, and destruction of nuclear and other weapons of the independent states of the former Soviet Union, including the safe and secure storage of fissile materials, dismantlement of missiles and launchers, and the elimination of chemical and biological weapons capabilities;

(B) the prevention of proliferation of weapons of mass destruction and their components and destabilizing conventional weapons of the independent states of the former Soviet Union, and the establishment of verifiable safeguards against the proliferation of such weapons;

(C) the prevention of diversion of weapons-related scientific expertise of the former Soviet Union to terrorist groups or third countries; and

(D) other efforts designed to reduce the military threat from the former Soviet Union;

(2) to support the demilitarization of the massive defense-related industry and equipment of the independent states of the former Soviet Union and conversion of such industry and equipment to civilian purposes and uses; and

[1] 22 U.S.C. 5901 note.
[2] 22 U.S.C. 5901.

(3) to expand military-to-military contacts between the United States and the independent states of the former Soviet Union.

**SEC. 1412.[3] AUTHORITY FOR PROGRAMS TO FACILITATE DEMILITARIZATION.**

(a) IN GENERAL.—Notwithstanding any other provision of law, the President is authorized,[4] in accordance with this title, to establish and conduct programs described in subsection (b) to assist the demilitarization of the independent states of the former Soviet Union.

(b)[5] TYPES OF PROGRAMS.—The programs referred to in subsection (a) are limited to—

(1) transporting, storing, safeguarding, and destroying nuclear, chemical, and other weapons of the independent states of the former Soviet Union, as described in section 212(b) of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228);

(2) establishing verifiable safeguards against the proliferation of such weapons and their components;

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[3] 22 U.S.C. 5902.

[4] In a memorandum of December 30, 1992, for the Secretaries of State and Defense and the Director of the Office of Management and Budget, the President delegated authority established in sec. 502 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3338; 22 U.S.C. 5852) and in sec. 1412(d) of this Act to the Secretary of State. The President further delegated authority in secs. 1412(a), 1431, and 1432 of this Act, and in secs. 503 and 508 of the FREEDOM Support Act to the Secretary of Defense. The memorandum provided the following: "The Secretary of Defense shall not exercise authority delegated * * * with respect to any former Soviet republic unless the Secretary of State has exercised his authority and performed the duty delegated * * * with respect to that former Soviet Republic. The Secretary of Defense shall not obligate funds in the exercise of authority delegated * * * unless the Director of the Office of Management and Budget has determined that expenditures during fiscal year 1993 pursuant to such obligation shall be counted against the defense category of discretionary spending limits for that fiscal year (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of Part C of the Balanced Budget and Emergency Deficit Control Act of 1985." (58 F.R. 3193; January 8, 1993).

[5] Sec. 1138 of the Arms Control and Nonproliferation Act of 1999 (title XI of division B of appendix G of Public Law 106–113; 113 Stat. 1501A–496) provided as follows:

"(a) AUTHORIZATION.—For fiscal year 2001 and subsequent fiscal years, funds made available under 'Nonproliferation, Antiterrorism, Demining, and Related Programs' accounts in annual foreign operations appropriations Acts are authorized to be available for science and technology centers in the independent states of the former Soviet Union assisted under section 503(a)(5) of the FREEDOM Support Act (22 U.S.C. 5853(a)(5)) or section 1412(b)(5) of the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102–484; 22 U.S.C. 5901 et seq.), including the use of those and other funds by any Federal agency having expertise and programs related to the activities carried out by those centers, including the Departments of Agriculture, Commerce, and Health and Human Services and the Environmental Protection Agency.

"(b) AVAILABILITY OF FUNDS.—Amounts made available under any provision of law for the activities described in subsection (a) shall be available until expended and may be used notwithstanding any other provision of law.".

Sec. 1139 of the Arms Control and Nonproliferation Act of 1999 further provided as follows:

"(a) IN GENERAL.—Support for science and technology centers in the independent states of the former Soviet Union, as authorized by section 503(a)(5) of the FREEDOM Support Act (22 U.S.C. 5853(a)(5)) and section 1412(b) of the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102–484, 22 U.S.C. 5901 et seq.), is authorized for activities described in subsection (b) to support the redirection of former Soviet weapons scientists, especially those with expertise in weapons of mass destruction (nuclear, radiological, chemical, biological), missile and other delivery systems, and other advanced technologies with military applications.

"(b) ACTIVITIES SUPPORTED.—Activities supported under subsection (a) include—

"(1) any research activity involving the participation of former Soviet weapons scientists and civilian scientists and engineers, if the participation of the weapons scientists predominates; and

"(2) any program of international exchanges that would provide former Soviet weapons scientists exposure to, and the opportunity to develop relations with, research and industry partners.".

(3) preventing diversion of weapons-related scientific expertise of the former Soviet Union to terrorist groups or third countries;

(4) facilitating the demilitarization of the defense industries of the former Soviet Union and the conversion of military technologies and capabilities into civilian activities;

(5)[5] establishing science and technology centers in the independent states of the former Soviet Union for the purpose of engaging weapons scientists, engineers, and other experts previously involved with nuclear, chemical, and other weapons in productive, nonmilitary undertakings; and

(6) expanding military-to-military contacts between the United States and the independent states of the former Soviet Union.

(c) UNITED STATES PARTICIPATION.—The programs described in subsection (b) should, to the extent feasible, draw upon United States technology and expertise, especially from the United States private sector.

(d)[6] RESTRICTIONS.—United States assistance authorized by subsection (a) may not be provided unless the President certifies to the Congress, on an annual basis, that the proposed recipient country is committed to—

(1) making a substantial investment of its resources for dismantling or destroying such weapons of mass destruction, if such recipient has an obligation under a treaty or other agreement to destroy or dismantle any such weapons;

(2) forgoing any military modernization program that exceeds legitimate defense requirements and forgoing the replacement of destroyed weapons of mass destruction;

(3) forgoing any use in new nuclear weapons of fissionable or other components of destroyed nuclear weapons;

(4) facilitating United States verification of any weapons destruction carried out under this title or section 212 of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228);

(5) complying with all relevant arms control agreements; and

(6) observing internationally recognized human rights, including the protection of minorities.

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[6] Sec. 1310 of Public Law 106–65 (113 Stat. 795) provided the following:

"**SEC. 1310. LIMITATION ON USE OF FUNDS UNTIL SUBMISSION OF CERTIFICATION.**

"No funds appropriated for fiscal year 1999 for Cooperative Threat Reduction programs and remaining available for obligation or expenditure may be obligated or expended for assistance for any country under a Cooperative Threat Reduction Program until the President resubmits to Congress an updated certification under section 1203(d) of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 22 U.S.C. 5952(d)), section 1412(d) of the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102–484; 22 U.S.C. 5902(d)), and section 502 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (Public Law 102–511; 22 U.S.C. 5852).".

## Subtitle C—Administrative and Funding Authorities

**SEC. 1421.[7] ADMINISTRATION OF DEMILITARIZATION PROGRAMS.**

(a) FUNDING.—(1) In recognition of the direct contributions to the national security interests of the United States of the activities specified in section 1412, funds transferred under sections 108 and 109 of Public Law 102–229 (105 Stat. 1708) are authorized to be made available to carry out this title. Of the amount available to carry out this title—

(A) not more than $40,000,000 may be made available for programs referred to in section 1412(b)(4) relating to demilitarization of defense industries;

(B) not more than $15,000,000 may be made available for programs referred to in section 1412(b)(6) relating to military-to-military contacts;

(C) not more than $25,000,000 may be made available for joint research development programs pursuant to section 1441;

(D) not more than $10,000,000 may be made available for the study, assessment, and identification of nuclear waste disposal activities by the former Soviet Union in the Arctic region;

(E) not more than $25,000,000 may be made available for Project PEACE; and

(F) not more than $10,000,000 may be made available for the Volunteers Investing in Peace and Security (VIPS) program

[7] 22 U.S.C. 5911. Sec. 9110 of the Department of Defense Appropriations Act, 1993 (Public Law 102–396; 106 Stat. 1928), provided:

"(TRANSFER OF FUNDS)

"SEC. 9110. (a) The Secretary of Defense may transfer to appropriate appropriation accounts for the Department of Defense, out of funds appropriated to the Department of Defense for fiscal year 1993, up to $400,000,000 to be available for the purposes authorized in the Former Soviet Union Demilitarization Act of 1992: *Provided*, That amounts so transferred shall be in addition to amounts transferred pursuant to the authority provided in section 108 of Public Law 102–229 (105 Stat. 1708).

"(b) Of the funds transferred pursuant to subsection (a):

"(1) not less than $10,000,000 shall be available only for the study, assessment, and identification of nuclear waste disposal by the former Soviet Union in the Arctic region;

"(2) not less than $25,000,000 shall be available only for Project PEACE;

"(3) not more than $50,000,000 may be made available for the Multilateral Nuclear Safety Initiative announced in Lisbon, Portugal on May 23, 1992;

"(4) not more than $40,000,000 may be made available for demilitarization of defense industries;

"(5) not more than $15,000,000 may be made available for military-to-military contacts;

"(6) not more than $25,000,000 may be made available for joint research and development programs; and

"(7) not more than $10,000,000 may be made available for the Volunteers Investing in Peace and Security (VIPS) program.

"(c) The Secretary of Defense may transfer from amounts appropriated to the Department of Defense for fiscal year 1993 or from balances in working capital funds not to exceed $15,000,000 to the appropriate accounts within the Department of Defense for the purposes authorized in section 109 of Public Law 102–229.

"(d) The authority provided in sections 108 and 109 of Public Law 102–229 (105 Stat. 1708) to transfer amounts appropriated for fiscal year 1992 shall continue to be in effect during fiscal year 1993.

"(e) The Secretary of Defense may transfer to appropriate appropriation accounts for the Department of Defense, out of funds available to the Department of Defense for fiscal year 1993, up to $40,000,000 to be available for international nonproliferation activities authorized in the Weapons of Mass Destruction Control Act of 1992: *Provided,* That such transfer authority shall not be available for payments either to the 'Contributions to International Organizations' account of the Department of State or to activities carried out by the International Atomic Energy Agency which have traditionally been the responsibilities of the Departments of State or Energy: *Provided further,* That up to $20,000,000 of the transfer authority provided in this section may be used for the activities of the On-Site Inspection Agency in support of the United Nations Special Commission on Iraq.

"(f) The transfer authority provided in this section shall be in addition to any other transfer authority contained in this Act.".

under chapter 89 of title 10, United States Code, as added by section 1322.

(2) Section 221(a) of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 105 Stat. 1695) is amended—* * *[8]

(b) TECHNICAL REVISIONS TO PUBLIC LAW 102–229.—Public Law 102–229 is amended—* * *[9]

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[8] For text, see page 165 of this volume.
[9] For text, see page 171 of this volume.

## u. Conventional Forces in Europe Treaty Implementation Act of 1991

**Partial text of Public Law 102–228 [H.R. 3807], 105 Stat. 1691, approved December 12, 1991; as amended by Public Law 102–484 [National Defense Authorization Act for Fiscal Year 1993, H.R. 5006], 106 Stat. 2315, approved October 23, 1992; Public Law 102–511 [FREEDOM Support Act, S. 2532], 106 Stat. 3320, approved October 24, 1992; Public Law 103–236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; Public Law 110–53 [Implementing Recommendations of the 9/11 Commission Act of 2007; H.R. 1], 121 Stat. 266, approved August 3, 2007; and Public Law 110–181 [National Defense Authorization Act for Fiscal Year 2008; H.R. 4986], 122 Stat. 3, approved January 28, 2008**

AN ACT To amend the Arms Export Control Act to authorize the President to transfer battle tanks, artillery pieces, and armored combat vehicles to member countries of the North Atlantic Treaty Organization in conjunction with implementation of the Treaty on Conventional Armed Forces in Europe.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1.[1] SHORT TITLE.**

This Act may be cited as the "Conventional Forces in Europe Treaty Implementation Act of 1991".

**SEC. 2.[2] AUTHORITY TO TRANSFER CERTAIN CFE TREATY-LIMITED EQUIPMENT TO NATO MEMBERS.**

The Arms Export Control Act is amended by adding at the end the following: * * *

### TITLE II—SOVIET WEAPONS DESTRUCTION

### PART A—SHORT TITLE

**SEC. 201.[3] SHORT TITLE.**

This title may be cited as the "Soviet Nuclear Threat Reduction Act of 1991".

[1] 22 U.S.C. 2751 note.
[2] Sec. 2 added a new chapter 9 to the Arms Export Control Act (22 U.S.C. 2799). See *Legislation on Foreign Relations Through 2008*, vol. I–A.
[3] 22 U.S.C. 2551 note.

## PART B—FINDINGS AND PROGRAM AUTHORITY

**SEC. 211.** * * * [Repealed 2007][4]

**SEC. 212.[3, 5] AUTHORITY FOR PROGRAM TO FACILITATE SOVIET WEAPONS DESTRUCTION.**

(a) IN GENERAL.—Notwithstanding any other provision of law, the President[6] may establish a program as authorized in subsection (b) to assist Soviet weapons destruction. Funds for carrying out this program shall be provided as specified in part C.

(b) TYPE OF PROGRAM.—The program under this section shall be limited to cooperation among the United States, the Soviet Union, its republics, and any successor entities to (1) destroy nuclear weapons, chemical weapons, and other weapons, (2) transport, store, disable, and safeguard weapons in connection with their destruction, and (3) establish verifiable safeguards against the proliferation of such weapons. Such cooperation may involve assistance in planning and in resolving technical problems associated with weapons destruction and proliferation. Such cooperation may also involve the funding of critical short-term requirements related to weapons destruction and should, to the extent feasible, draw upon United States technology and United States technicians.

## PART C—ADMINISTRATIVE AND FUNDING AUTHORITIES

**SEC. 221.[3, 5] ADMINISTRATION OF NUCLEAR THREAT REDUCTION PROGRAMS.**

(a) FUNDING.—

(1) TRANSFER AUTHORITY.—The President may, to the extent provided in an appropriations Act or joint resolution, transfer to the appropriate defense accounts from amounts appropriated to the Department of Defense for fiscal years 1992 and 1993[7] for operation and maintenance or from balances in working capital accounts established under section 2208 of title 10, United States Code, not to exceed $800,000,000[8] for use in reducing the Soviet military threat under part B.

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[4] Sec. 1304(a)(1)(A) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 412) struck out sec. 211 of this Act. For the full text of the former sec. 211 and accompanying notes, see *Legislation on Foreign Relations Through 2005*, vol. II–B, p. 148. Sec. 1811(1) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53; 121 Stat. 492) had earlier repealed subsecs. (b) and (c) of sec. 211.

[5] In a memorandum for the Secretary of State, the Secretary of Defense and the Director of the Office of Management and Budget, the President delegated "to the Secretary of Defense the authorities and duties vested in the President under sections 212, 221, 231, and 232 of H.R. 3807 as passed the Senate on November 25, 1991, and referred to in section 108 of the Act.".

The memorandum further provided that the Secretary of Defense shall not exercise such authority until the Secretary of State first exercises the authority delegated to him in sec. 211(b). Furthermore, any obligation of funds on the part of the Secretary of Defense shall require a determination by the Director of OMB, in accordance with sec. 221(e) of H.R. 3807, as passed by the Senate on November 25, 1991, and referred to in sec. 108 of Public Law 102–229.

Subsequent to these delegations, sec. 1421(b)(1) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2565) amended sec. 108 of Public Law 102–229 to refer, instead, to Public Law 102–228.

[6] Sec. 1304(a)(1)(B) of Public Law 110–181 (122 Stat. 412) struck out ", consistent with the findings stated in section 211," at this point.

[7] Sec. 1421(a)(2)(A) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2565), struck out "fiscal year 1992" and inserted in lieu thereof "fiscal years 1992 and 1993".

[8] Sec. 1421(a)(2)(B) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2565), struck out "$400,000,000" and inserted in lieu thereof "$800,000,000". Sec. 506 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3341) made duplicate amendments. Sec. 506(c) of that Act, however, provided:

Continued

(2) LIMITATION.—Amounts for transfers under paragraph (1) may not be derived from amounts appropriated for any activity of the Department of Defense that the Secretary of Defense determines essential for the readiness of the Armed Forces, including amounts for—

(A) training activities; and

(B) depot maintenance activities.

(b) DEPARTMENT OF DEFENSE.—The Department of Defense shall serve as the executive agent for any program established under part B.

(c) REIMBURSEMENT OF OTHER AGENCIES.—The Secretary of Defense may reimburse other United States Government departments and agencies under this section for costs of participation, as directed by the President,[9] only in a program established under part B.

(d) CHARGES AGAINST FUNDS.—The value of any material from existing stocks and inventories of the Department of Defense, or any other United States Government department or agency, that is used in providing assistance under part B to reduce the Soviet military threat may not be charged against funds available pursuant to subsection (a) to the extent that the material contributed is directed by the President to be contributed without subsequent replacement.

(e)[5] DETERMINATION BY DIRECTOR OF OMB.—No amount may be obligated for the program under part B for fiscal year 1992 or fiscal year 1993[8, 10] unless expenditures for that program for that fiscal year[8, 11] have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for that fiscal year[8, 12] (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

**SEC. 222.[3] REPAYMENT ARRANGEMENTS.**

(a) REIMBURSEMENT ARRANGEMENTS.—Assistance provided under part B to the Soviet Union, any of its republics, or any successor entity shall be conditioned, to the extent that the President determines to be appropriate after consultation with the recipient government, upon the agreement of the recipient government to reimburse the United States Government for the cost of such assistance

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"(c) AVOIDANCE OF DUPLICATIVE AMENDMENTS.—The amendments made by this section shall not be effective if the National Defense Authorization Act for Fiscal Year 1993 enacts an amendment to section 221(a) of the Soviet Nuclear Threat Reduction Act of 1991 that authorizes the transfer of an amount that is the same or greater than the amount that is authorized by the amendment made by subsection (a)(1) of this section and enacts amendments identical to those in subsections (a)(2) and (b) of this section [subsec. (b) amended Public Law 102–229]. If that Act enacts such amendments, sections 503 and 508 of this act shall be deemed to apply with respect to the funds made available under such amendments.".

[9] In a memorandum of May 10, 1996, for the Secretaries of State and Defense, the President delegated this authority to the Secretary of State (61 F.R. 26033; May 23, 1996).

[10] Sec. 1421(a)(3)(A) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2565), inserted "for fiscal year 1992 or fiscal year 1993" after "under part B".

[11] Sec. 1421(a)(3)(B) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2565), inserted "for that fiscal year" after "for that program".

[12] Sec. 1421(a)(3)(C) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2565), struck out "for fiscal year 1992" and inserted in lieu thereof "for that fiscal year".

from natural resources or other materials available to the recipient government.

(b) NATURAL RESOURCES, ETC.—The President shall encourage the satisfaction of such reimbursement arrangements through the provision of natural resources, such as oil and petroleum products and critical and strategic materials, and industrial goods. Materials received by the United States Government pursuant to this section that are suitable for inclusion in the Strategic Petroleum Reserve or the National Defense Stockpile may be deposited in the reserve or stockpile without reimbursement. Other material and services received may be sold or traded on the domestic or international market with the proceeds to be deposited in the General Fund of the Treasury.

**SEC. 223.[3] DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS.**

It is the sense of the Senate that the committee of conference on House Joint Resolution 157[13] should consider providing the necessary authority in the conference agreement for the President to transfer funds pursuant to this title.

## PART D—REPORTING REQUIREMENTS [14]

**SEC. 231.[3, 5] PRIOR NOTICE OF OBLIGATIONS TO CONGRESS.**

Not less than 15 days before obligating any funds for a program under part B, the President shall transmit to the Congress a report on the proposed obligation. Each such report shall specify—

(1) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

(2) the activities and forms of assistance under part B for which the President plans to obligate such funds.

**SEC. 232.[15]** * * * [Repealed—1994]

# TITLE III—EMERGENCY AIRLIFT AND OTHER SUPPORT

**SEC. 301.[16] AUTHORITY TO TRANSFER CERTAIN FUNDS TO PROVIDE EMERGENCY AIRLIFT AND OTHER SUPPORT.**

(a) FINDINGS.—The Congress finds—

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[13] See sec. 108 of H.J. Res. 157 (Public Law 102–229), page 172 of this volume.

[14] Under Condition 5(C) of the Senate resolution of advice and consent to ratification of the Conventional Armed Forces in Europe treaty (Treaty No. 102–8; November 25, 1991), the President must report to Congress if a new state is formed in the geographical area covered by the treaty. In sec. 2(a)(2) of Executive Order 13313 dated July 31, 2003 (68 F.R. 46075; August 5, 2003), the President delegated this function to the Secretary of State.

[15] Sec. 139(17) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 398), repealed sec. 232, which had required that the President report quarterly on certain activities to reduce the Soviet military threat.

[16] In a memorandum dated January 21, 1992, for the Secretary of Defense (57 F.R. 3111; January 28, 1992), the President, to meet requirements on funds appropriated by sec. 109 of Public Law 102–229, relating to the "transport by military or commercial means, food, medical supplies, and other types of humanitarian assistance to the Soviet Union, or its Republics, or localities therein—with the consent of the relevant Republic government or its independent successor—in order to address emergency conditions which may arise therein, and for the purposes set forth in section 301 of H.R. 3807 * * * ", designated such funds "as emergency requirements, pursuant to the terms of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended * * * ". The President further directed the Secretary of Defense to make certain transfers, and delegated certain authorities and duties to the Secretary as defined in sec. 301 of H.R. 3807 as passed by the Senate on November 25, 1991.

Congress enacted H.R. 3807 as Public Law 102–228 (105 Stat. 1691) on December 12, 1991. Sec. 1421(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–

Continued

(1) that political and economic conditions within the Soviet Union and its republics are unstable and are likely to remain so for the foreseeable future;

(2) that these conditions could lead to the return of anti-democratic forces in the Soviet Union;

(3) that one of the most effective means of preventing such a situation is likely to be the immediate provision of humanitarian assistance; and

(4) that should this need arise, the United States should have funds readily available to provide for the transport of such assistance to the Soviet Union, its republics, and any successor entities.

(b) AUTHORITY TO TRANSFER CERTAIN FUNDS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Defense, at the direction of the President, may during fiscal year 1992, to the extent provided in an appropriations Act or joint resolution, transfer to the appropriate defense accounts sufficient funds, not to exceed $100,000,000, from funds described in paragraph (3) in order to transport, by military or commercial means, food, medical supplies, and other types of humanitarian assistance to the Soviet Union, its republics, or any successor entities—with the consent of the relevant republic government or independent successor entity—in order to address emergency conditions which may arise in such republic or successor entity, as determined by the President. As used in this subsection, the term "humanitarian assistance" does not include construction equipment, including tractors, scrapers, loaders, graders, bulldozers, dumptrucks, generators, and compressors.

(2) REPORTS BY THE SECRETARY OF STATE.—The Secretary of State shall promptly report to the President regarding any emergency conditions which may require such humanitarian assistance. The Secretary's report shall include an estimate of the extent of need for such assistance, discuss whether the consent of the relevant republic government or independent successor entity has been given for the delivery of such assistance, describe steps other nations and organizations are prepared to take in response to an emergency, and discuss the foreign policy implications, if any, of providing such assistance.

(3) SOURCE OF FUNDS.—Any funds which are transferred pursuant to this subsection shall be drawn from amounts appropriated to the Department of Defense for fiscal year 1992 or from balances in working capital accounts established under section 2208 of title 10, United States Code.

(4) EMERGENCY REQUIREMENTS.—The Congress designates all funds transferred pursuant to this section as "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985. Notwithstanding any

484; 106 Stat. 2565) and sec. 506(b) of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3341) amended references in the corresponding appropriations act, the Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effect of Natural Disasters, for Other Urgent Needs, and for Incremental Cost of "Operation Desert Shield/Desert Storm" Act of 1992 (Public Law 102–229; 105 Stat. 1701), to H.R. 3807, as passed by the Senate on November 25, 1991, to refer instead to the enacted authorization in Public Law 102–228.

other provision of law, funds shall be available for transfer pursuant to this section only if, not later than the date of enactment of the appropriations Act or joint resolution that makes funds available for transfer pursuant to this section, the President, in a single designation, designates the entire amount of funds made available for such transfer by that appropriations Act or joint resolution to be "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) REPAYMENT ARRANGEMENTS.—

(1) REIMBURSEMENT ARRANGEMENTS.—Assistance provided under subsection (b) to the Soviet Union, any of its republics, or any successor entity shall be conditioned, to the extent that the President determines to be appropriate after consultation with the recipient government, upon the agreement of the recipient government to reimburse the United States Government for the cost of such assistance from natural resources or other materials available to the recipient government.

(2) NATURAL RESOURCES, ETC.—The President shall encourage the satisfaction of such reimbursement arrangements through the provision of natural resources, such as oil and petroleum products and critical and strategic materials, and industrial goods. Materials received by the United States Government pursuant to this subsection that are suitable for inclusion in the Strategic Petroleum Reserve or the National Defense Stockpile may be deposited in the reserve or stockpile without reimbursement. Other material and services received may be sold or traded on the domestic or international market with the proceeds to be deposited in the General Fund of the Treasury.

(d) DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS.—It is the sense of the Senate that the committee of conference on House Joint Resolution 157 should consider providing the necessary authority in the conference agreement for the Secretary of Defense to transfer funds pursuant to this title.

**SEC. 302. REPORTING REQUIREMENTS.**

(a) PRIOR NOTICE.—Before any funds are transferred for the purposes authorized in section 301(b), the President shall notify the Committees on Armed Services [17] and the Committees on Appropriations of the Senate and the House of Representatives of the account, budget activity, and particular program or programs from which the transfer is planned to be made and the amount of the transfer.

(b) REPORTS TO THE CONGRESS.—Within ten days after directing the Secretary of Defense to transfer funds pursuant to section 301(b), the President shall provide a report to the Committees on Armed Services [17] of the Senate and House of Representatives, the

[17] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

Committees on Appropriations of the Senate and House of Representatives, and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs[18] of the House of Representatives. This report shall at a minimum, set forth—

(1) the amount of funds transferred under this title, including the source of such funds;

(2) the conditions which prompted the use of this authority;

(3) the form and number of lift assets planned to be used to deliver assistance pursuant to this title;

(4) the types and purpose of the cargo planned to be delivered pursuant to this title; and

(5) the locations, organizations, and political institutions to which assistance is planned to be delivered pursuant to this title.

## TITLE IV—ARMS CONTROL AND DISARMAMENT ACT

**SEC. 401.[19] ARMS CONTROL AND DISARMAMENT AGENCY.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 49(a) of the Arms Control and Disarmament Act (22 U.S.C. 2589(a)) is amended— * * *

(b) ADMINISTRATIVE AUTHORITIES REGARDING INVESTIGATIONS.—Section 41 of that Act (22 U.S.C. 2581) is amended— * * *

(c) * * * [Repealed—1994]

**SEC. 402.[20] ON-SITE INSPECTION AGENCY.** * * *

[18] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

[19] Sec. 401(a) and (b) amended the Arms Control and Disarmament Act at sec. 41 (22 U.S.C. 2581) and sec. 49 (22 U.S.C. 2589(a)). Subsequently, sec. 1223(21) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–772) redesignated sec. 41 as sec. 401 (see page 17 of this volume), and sec. 1222 of that Act repealed sec. 49, which pertained to specialists fluent in Russian or other languages of the independent states of the former Soviet Union.Sec. 139(18) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 398) repealed sec. 401(c), which had required that the Inspector General of ACDA report to the President and to Congress on ACDA's fulfillment of primary functions described in sec. 2 of the Arms Control and Disarmament Act.

[20] Sec. 402(a) amended secs. 61 and 64 of the Arms Control and Disarmament Act (22 U.S.C. 2595, 2595c). Sec. 402(b) redesignated sec. 64 of the Arms Control and Disarmament Act as sec. 65, and added a new sec. 64 (22 U.S.C. 2595b–1).

## v. Soviet Nuclear Threat Reduction—Appropriations, Fiscal Year 1992

**Partial text of Public Law 102–229 [Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Cost of "Operation Desert Shield/Desert Storm" Act of 1992; H.J. Res. 157], 105 Stat. 1701, approved December 12, 1991; as amended by Public Law 102–484 [National Defense Authorization Act for Fiscal Year 1993, H.R. 5006], 106 Stat. 2315, approved October 23, 1992; and Public Law 102–511 [FREEDOM Support Act, S. 2532], 106 Stat. 3320, approved October 24, 1992**

JOINT RESOLUTION Making dire emergency supplemental appropriations and transfers for relief from the effects of natural disasters, for other urgent needs, and for incremental costs of "Operation Desert Shield/Desert Storm" for the fiscal year ending September 30, 1992, and for other purposes.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide dire emergency supplemental appropriations for the fiscal year ending September 30, 1992, and for other purposes, namely:

* * * * * * *

### TITLE I—EMERGENCY SUPPLEMENTAL APPROPRIATIONS

#### CHAPTER I

* * * * * * *

RESTRICTION ON ARMS SALES TO SAUDI ARABIA AND KUWAIT

SEC. 104. (a) No funds appropriated or otherwise made available by this or any other Act may be used in any fiscal year to conduct, support, or administer any sale of defense articles or defense services to Saudi Arabia or Kuwait until that country has paid in full, either in cash or in mutually agreed in-kind contributions, the following commitments made to the United States to support Operation Desert Shield/Desert Storm:

(1) In the case of Saudi Arabia, $16,839,000,000.

(2) In the case of Kuwait, $16,006,000,000.

(b) For purposes of this section, the term "any sale" means any sale with respect to which the President is required to submit a numbered certification to the Congress pursuant to the Arms Export Control Act on or after the effective date of this section.

(c) This section shall take effect 120 days after the date of enactment of this joint resolution.

(d) Any military equipment of the United States, including battle tanks, armored combat vehicles, and artillery, included within the Conventional Forces in Europe Treaty definition of "conventional

armaments and equipment limited by the Treaty", which may be transferred to any other NATO country shall be subject to the notification procedures stated in section 523 of Public Law 101–513 and in section 634A of the Foreign Assistance Act of 1961.

* * * * * * *

(TRANSFER OF FUNDS)

SEC. 108.[1] In addition to other transfer authority available to the Department of Defense, the Secretary of Defense may transfer from amounts appropriated to the Department of Defense for fiscal year 1992 for operation and maintenance or from balances in working capital accounts established under section 2208 of title 10, United States Code, not to exceed $400,000,000, to the appropriate accounts within the Department of Defense for reducing the Soviet nuclear threat and for the purposes set forth in the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228),[2, 3] and under the terms and conditions of such Act:[4] *Provided*, That the readiness of the United States Armed Forces shall not be diminished by such transfer of funds.[5]

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[1] Sec. 1205(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1781), provided the following:

"(c) AUTHORIZATION OF EXTENSION OF AVAILABILITY OF PRIOR YEAR FUNDS.—To the extent provided in appropriations Acts, the authority to transfer funds of the Department of Defense provided in section 9110(a) of the Department of Defense Appropriations Act, 1993 (Public Law 102–396; 106 Stat. 1928), and in section 108 of Public Law 102–229 (105 Stat. 1708) shall continue to be in effect during fiscal year 1994.".

[2] Sec. 1421(b)(1) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2565), struck out "contained in H.R. 3807, as passed the Senate on November 25, 1991", and inserted in lieu thereof "(title II of Public Law 102–228)".

[3] Sec. 506 of the FREEDOM Support Act (Public Law 102–511; 106 Stat. 3341) made duplicate amendments. Sec. 506(c) of that Act, however, provided:

"(c) AVOIDANCE OF DUPLICATIVE AMENDMENTS.—The amendments made by this section shall not be effective if the National Defense Authorization Act for Fiscal Year 1993 enacts an amendment to section 221(a) of the Soviet Nuclear Threat Reduction Act of 1991 that authorizes the transfer of an amount that is the same or greater than the amount that is authorized by the amendment made by subsection (a)(1) of this section and enacts amendments identical to those in subsections (a)(2) and (b) of this section [subsec. (b) amended Public Law 102–229]. If that Act enacts such amendments, sections 503 and 508 of this act shall be deemed to apply with respect to the funds made available under such amendments.".

[4] In a memorandum dated January 21, 1992 for the Secretary of Defense (57 F.R. 3111; January 28, 1992), the President, to meet requirements on funds appropriated by sec. 109 of Public Law 102–229, relating to the "transport by military or commercial means, food, medical supplies, and other types of humanitarian assistance to the Soviet Union, or its Republics, or localities therein—with the consent of the relevant Republic government or its independent successor—in order to address emergency conditions which may arise therein, and for the purposes set forth in section 301 of H.R. 3807, as passed the Senate on November 25, 1991, and under the terms and conditions of such section 301 of H.R. 3807 * * * ", designated such funds "as emergency requirements, pursuant to the terms of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended * * * ". The President further directed the Secretary of Defense to make certain transfers, and delegated certain authorities and duties to the Secretary as defined by sec. 301 of H.R. 3807 as passed by the Senate on November 25, 1991.

For the Soviet Nuclear Threat Reduction Act of 1991, as contained in H.R. 3807, and passed by the Senate on November 25, 1991, see *Legislation on Foreign Relations Through 1991*, vol. II, page 1042. For the Soviet Nuclear Threat Reduction Act of 1991, as enacted into law (Public Law 102–228; 105 Stat. 1693), see *Legislation on Foreign Relations Through 1991*, vol. II, page 1028.

[5] Sec. 9110(a) of the Department of Defense Appropriations Act, 1993 (Public Law 102–396; 106 Stat. 1928), authorized the Secretary of Defense to transfer to appropriate appropriation accounts for the Department of Defense, out of funds appropriated to the Department of Defense for fiscal year 1993, up to $400,000,000 to be available for the purposes authorized in the Former Soviet Union Demilitarization Act of 1992, in addition to amounts transferred pursuant to the authority provided in sec. 108 of Public Law 102–229 (105 Stat. 1708). Congress earmarked the funds made available in sec. 9110(a) of Public Law 102–396 for particular projects, see 106 Stat. 1928. Sec. 9110(c) of that Act authorized the transfer of another $15,000,000 from the balances of DOD working capital funds for the purposes authorized in sec. 109. Sec. 9110(e)

(TRANSFER OF FUNDS)

SEC. 109.[4, 5, 6] In addition to other transfer authority available to the Department of Defense, the Secretary of Defense, upon the declaration of an emergency by the President under the terms of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, may transfer from amounts appropriated to the Department of Defense for fiscal year 1992 or from balances in working capital accounts established under section 2208 of title 10, United States Code, not to exceed $100,000,000, to the appropriate accounts within the Department of Defense, in order to transport by military or commercial means, food, medical supplies, and other types of humanitarian assistance to the Soviet Union, or its Republics, or localities therein—with the consent of the relevant Republic government or its independent successor—in order to address emergency conditions which may arise therein, and for the purposes set forth in section 301 of Public Law 102–228 (105 Stat.

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of that Act authorized the transfer of another $40,000,000 for international proliferation activities pursuant to the Weapons of Mass Destruction Control Act of 1992 (title XV of Public Law 102–484).

Title II of the Department of Defense Appropriations Act, 1994 (Public Law 103–139; 107 Stat. 1426), provided $400,000,000 for former Soviet Union threat reduction. Title II of the Department of Defense Appropriations Act, 1995 (Public Law 103–335; 108 Stat. 2606), also provided $400,000,000. Title I, chapter II, Department of Defense, Operation and Maintenance, of Public Law 104–6 (109 Stat. 77), however, rescinded $20,000,000 of that which was provided in Public Law 103–335. Title II of the Department of Defense Appropriations Act, 1996 (Public Law 104–61; 109 Stat. 642) provided $300,000,000. Title II of the Department of Defense Appropriations Act, 1997 (as enacted by sec. 101(b) of title I of Public Law 104–208; 110 Stat. 3009–78), provided $327,900,000. Title II of the Department of Defense Appropriations Act, 1998 (Public Law 105–56; 111 Stat. 1210) provided $382,200,000. Title II of the Department of Defense Appropriations Act, 1999 (Public Law 105–262; 112 Stat. 2286) provided $440,400,000. Title II of the Department of Defense Appropriations Act, 2000 (Public Law 106–79; 113 Stat. 1220) provided $460,500,000. Title II of the Department of Defense Appropriations Act, 2001 (Public Law 106–259; 114 Stat. 663) provided $443,400,000. Sec. 8054 of title VIII of division A of the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002 (Public Law 107–117: 115 Stat. 2259), however, rescinded $50,000,000 from Cooperative Threat Reduction appropriations for fiscal years 2003–2005. Title II of the Department of Defense Appropriations Act, 2003 (Public Law 107–248; 116 Stat. 1526) provided $416,700,000. Title II of the Department of Defense Appropriations Act, 2004 (Public Law 108–87; 117 Stat. 1061) provided $450,800,000. Title II of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 959) provided $409,200,000.

Most recently, title II of the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Public Law 109–148; 119 Stat. 2687) provided the following:

"FORMER SOVIET UNION THREAT REDUCTION ACCOUNT

"For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, $415,549,000, to remain available until September 30, 2008: *Provided*, That of the amounts provided under this heading, $15,000,000 shall be available only to support the dismantling and disposal of nuclear submarines, submarine reactor components, and security enhancements for transport and storage of nuclear warheads in the Russian Far East.".

[6] In a January 21, 1992, memorandum for the Secretary of Defense (57 F.R. 3111; January 28, 1992), the President stated:

"1. I designate as emergency requirements, pursuant to the terms of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, the full amount for which section 109 provides.

"2. Effective upon satisfaction of applicable congressional notification requirements, I direct the Secretary of Defense to transfer funds under section 109 as it incorporates by reference section 301(b) of H.R. 3807 as passed the Senate on November 25, 1991.

"3. The authorities and duties of the President under section 301 of H.R. 3807 as passed the Senate on November 25, 1991, and referred to in section 109 (except the designation of emergency relating to funding addressed in paragraph 1 and the direction addressed in paragraph 2) are hereby delegated to the Secretary of Defense.".

1696),[3,7] and under the terms and conditions of such section 301:[3,8] *Provided,* That the readiness of the United States Armed Forces shall not be diminished by such transfer of funds: *Provided further,* That the Committees on Appropriations be notified of transfers under this provision fifteen days in advance.

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## TITLE II—GENERAL PROVISIONS

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SEC. 201. No part of any appropriation contained in this joint resolution shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

CONGRESSIONAL DESIGNATION OF EMERGENCY

SEC. 202. Although the President has only designated portions of the funds in this joint resolution pertaining to the incremental costs of Desert Shield/Desert Storm and certain Federal Emergency Management Agency costs as "emergency requirements", the Congress believes that the same or higher priority should be given to helping American people recover from natural disasters and other emergency situations as has been given to foreign aid "emergency" needs. The Congress therefore designates all funds in Titles I and II of this joint resolution as "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

* * * * * * *

**SEC. 204. SENSE OF THE SENATE REGARDING UNITED STATES RECOGNITION OF UKRAINIAN INDEPENDENCE.**

(a) FINDINGS.—The Senate makes the following findings:

(1) On August 24, 1991, the democratically elected Ukrainian parliament declared Ukrainian independence and the creation of an independent, democratic state—Ukraine.

(2) That declaration reflects the desire of the people of Ukraine for freedom and independence following long years of communist oppression, collectivization, and centralization.

(3) On December 1, 1991, a republic-wide referendum will be held in Ukraine to confirm the August 24, 1991, declaration of independence.

(4) Ukraine is pursuing a peaceful and democratic path to independence and has pledged to comply with the Helsinki Final Act and other documents of the Conference on Security and Cooperation in Europe.

(5) Ukraine and Russia signed an agreement on August 29, 1991, recognizing each other's rights to state independence and affirming each other's territorial integrity.

(6) Ukraine, a nation of 52,000,000 people, with its own distinct linguistic, cultural, and religious traditions, is determined

[7] Sec. 1421(b)(2)(A) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2565) struck out "H.R. 3807, as passed the Senate on November 25, 1991" and inserted in lieu thereof "Public Law 102–228 (105 Stat. 1696)".

[8] Sec. 1421(b)(2)(B) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2565) struck out "of H.R. 3807" here.

to take its place among the family of free and democratic nations of the world.

(7) The Congress has traditionally supported the rights of people to peaceful and democratic self-determination.

(8) As recognized in Article VIII of the Helsinki Final Act of the Conference on Security and Cooperation in Europe, "all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development".

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the President—

(1) should recognize Ukraine's independence and undertake steps toward the establishment of full diplomatic relations with Ukraine should the December 1, 1991, referendum confirm Ukrainian parliament's independence declaration; and

(2) should use United States assistance, trade, and other programs to support the Government of Ukraine and encourage the further development of democracy and a free market in Ukraine.

* * * * * * *

This joint resolution may be cited as the "Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Cost of 'Operation Desert Shield/Desert Storm' Act of 1992".

## 4. Nonproliferation of Weapons of Mass Destruction [1]

## a. Implementing Recommendations of the 9/11 Commission Concerning Nonproliferation and Terrorism

**Partial text of Public Law 110–53 [Title XVIII of the Implementing Recommendations of the 9/11 Commission Act of 2007; H.R. 1], 121 Stat. 266, approved August 3, 2007**

AN ACT To provide for the implementation of the recommendations of the National Commission on Terrorist Attacks Upon the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1.[2] SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Implementing Recommendations of the 9/11 Commission Act of 2007".

(b) * * *

* * * * * * *

## TITLE XVIII—PREVENTING WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM


Sec. 1801. Findings.
Sec. 1802. Definitions.

**Subtitle A—Repeal and Modification of Limitations on Assistance for Prevention of WMD Proliferation and Terrorism**

Sec. 1811. Repeal and modification of limitations on assistance for prevention of weapons of mass destruction proliferation and terrorism.

**Subtitle B—Proliferation Security Initiative**

Sec. 1821. Proliferation Security Initiative improvements and authorities.
Sec. 1822. Authority to provide assistance to cooperative countries.

**Subtitle C—Assistance to Accelerate Programs to Prevent Weapons of Mass Destruction Proliferation and Terrorism**

Sec. 1831. Statement of policy.
Sec. 1832. Authorization of appropriations for the Department of Defense Cooperative Threat Reduction Program.
Sec. 1833. Authorization of appropriations for the Department of Energy programs to prevent weapons of mass destruction proliferation and terrorism.


[1] See also arms control provisions in annual National Defense Authorization Acts, sec. 5 of this volume, beginning at page 528. See also international terrorism provisions, this volume. See also in the Arms Export Control Act (*Legislation on Foreign Relations Through 2008*, vol. I–A): chapter 7—Control of Missiles and Missile Equipment Technology, chapter 8—Chemical or Biological Weapons Proliferation, and chapter 10—Nuclear Proliferation Controls. See also in the Export Administration Act of 1979 (*Legislation on Foreign Relations Through 2008*, vol. III): sec. 5—National Security Controls, sec. 6—Foreign Policy Controls, sec. 11A—Multilateral Export Control Violations, sec. 11B—Missile Proliferation Control Violations, sec. 11C—Chemical and Biological Weapons Proliferation Sanctions.

[2] 6 U.S.C. 101 note.

**Subtitle D—Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism**

Sec. 1841. Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism.
Sec. 1842. Sense of Congress on United States-Russia cooperation and coordination on the prevention of weapons of mass destruction proliferation and terrorism.

**Subtitle E—Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism**

Sec. 1851. Establishment of Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism.
Sec. 1852. Purposes of Commission.
Sec. 1853. Composition of Commission.
Sec. 1854. Responsibilities of Commission.
Sec. 1855. Powers of Commission.
Sec. 1856. Nonapplicability of Federal Advisory Committee Act.
Sec. 1857. Report.
Sec. 1858. Termination.
Sec. 1859. Funding.

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## TITLE XVIII—PREVENTING WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM

**SEC. 1801.[3] FINDINGS.**

The 9/11 Commission has made the following recommendations:

(1) STRENGTHEN "COUNTER-PROLIFERATION" EFFORTS.—The United States should work with the international community to develop laws and an international legal regime with universal jurisdiction to enable any state in the world to capture, interdict, and prosecute smugglers of nuclear material.

(2) EXPAND THE PROLIFERATION SECURITY INITIATIVE.—In carrying out the Proliferation Security Initiative, the United States should—

(A) use intelligence and planning resources of the North Atlantic Treaty Organization (NATO) alliance;

(B) make participation open to non-NATO countries; and

(C) encourage Russia and the People's Republic of China to participate.

(3) SUPPORT THE COOPERATIVE THREAT REDUCTION PROGRAM.—The United States should expand, improve, increase resources for, and otherwise fully support the Cooperative Threat Reduction program.

**SEC. 1802.[4] DEFINITIONS.**

In this title:

(1) The terms "prevention of weapons of mass destruction proliferation and terrorism" and "prevention of WMD proliferation and terrorism" include activities under—

(A) the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note);

[3] 50 U.S.C. 2901.
[4] 50 U.S.C. 2902.

(B) the programs for which appropriations are authorized by section 3101(a)(2) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2729);

(C) programs authorized by section 504 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (the FREEDOM Support Act) (22 U.S.C. 5854) and programs authorized by section 1412 of the Former Soviet Union Demilitarization Act of 1992 (22 U.S.C. 5902); and

(D) a program of any agency of the Federal Government having a purpose similar to that of any of the programs identified in subparagraphs (A) through (C), as designated by the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism and the head of the agency.

(2) The terms "weapons of mass destruction" and "WMD" mean chemical, biological, and nuclear weapons, and chemical, biological, and nuclear materials used in the manufacture of such weapons.

(3) The term "items of proliferation concern" means—

(A) equipment, materials, or technology listed in—

(i) the Trigger List of the Guidelines for Nuclear Transfers of the Nuclear Suppliers Group;

(ii) the Annex of the Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Materials, Software, and Related Technology of the Nuclear Suppliers Group; or

(iii) any of the Common Control Lists of the Australia Group; and

(B) any other sensitive items.

## Subtitle A—Repeal and Modification of Limitations on Assistance for Prevention of WMD Proliferation and Terrorism

### SEC. 1811. REPEAL AND MODIFICATION OF LIMITATIONS ON ASSISTANCE FOR PREVENTION OF WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM.

Consistent with the recommendations of the 9/11 Commission, Congress repeals or modifies the limitations on assistance for prevention of weapons of mass destruction proliferation and terrorism as follows: * * *

(1) SOVIET NUCLEAR THREAT REDUCTION ACT OF 1991.—Subsections (b) and (c) of section 211 of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 22 U.S.C. 2551 note) are repealed.

(2) COOPERATIVE THREAT REDUCTION ACT OF 1993.—Section 1203(d) of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 22 U.S.C. 5952(d)) is repealed.

(3) RUSSIAN CHEMICAL WEAPONS DESTRUCTION FACILITIES.—Section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 22 U.S.C. 5952 note) is repealed.

(4) AUTHORITY TO USE COOPERATIVE THREAT REDUCTION FUNDS OUTSIDE THE FORMER SOVIET UNION—MODIFICATION OF CERTIFICATION REQUIREMENT; CONGRESSIONAL NOTICE REQUIREMENT.—Section 1308 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 22 U.S.C. 5963) is amended— * * *

## Subtitle B—Proliferation Security Initiative

**SEC. 1821.[5] PROLIFERATION SECURITY INITIATIVE IMPROVEMENTS AND AUTHORITIES.**

(a) SENSE OF CONGRESS.—It is the sense of Congress, consistent with the 9/11 Commission's recommendations, that the President should strive to expand and strengthen the Proliferation Security Initiative (in this subtitle referred to as "PSI") announced by the President on May 31, 2003, with a particular emphasis on the following:

(1) Issuing a presidential directive to the relevant United States Government agencies and departments that directs such agencies and departments to—

(A) establish clear PSI authorities, responsibilities, and structures;

(B) include in the budget request for each such agency or department for each fiscal year, a request for funds necessary for United States PSI-related activities; and

(C) provide other necessary resources to achieve more efficient and effective performance of United States PSI-related activities.

(2) Increasing PSI cooperation with all countries.

(3) Implementing the recommendations of the Government Accountability Office (GAO) in the September 2006 report titled "Better Controls Needed to Plan and Manage Proliferation Security Initiative Activities" (GAO-06-937C) regarding the following:

(A) The Department of Defense and the Department of State should establish clear PSI roles and responsibilities, policies and procedures, interagency communication mechanisms, documentation requirements, and indicators to measure program results.

(B) The Department of Defense and the Department of State should develop a strategy to work with PSI-participating countries to resolve issues that are impediments to conducting successful PSI interdictions.

(4) Establishing a multilateral mechanism to increase coordination, cooperation, and compliance among PSI-participating countries.

(b)[6] BUDGET SUBMISSION.—

[5] 50 U.S.C. 2911.

[6] In Delegation of Authority 314 dated June 30, 2008 (73 F.R. 39369; July 9, 2008), the Deputy Secretary of State delegated the reporting function in this subsection to the Under Secretary of State for Arms Control and International Security. The Deputy Secretary of State is authorized to delegate such functions pursuant to Delegation of Authority 245 dated April 23, 2001 (66 F.R. 22065; May 2, 2001), in which the Secretary of State delegated all of his authorities to the Deputy Secretary of State. The Secretary of State's authority for such delegation is located in sec. 1(a)(4) of the State Department Basic Authorities Act of 1956, as amended (Public

Continued

(1) IN GENERAL.—Each fiscal year in which activities are planned to be carried out under the PSI, the President shall include in the budget request for each participating United States Government agency or department for that fiscal year, a description of the funding and the activities for which the funding is requested for each such agency or department.

(2) REPORT.—Not later than the first Monday in February of each year in which the President submits a budget request described in paragraph (1), the Secretary of Defense and the Secretary of State shall submit to Congress a comprehensive joint report setting forth the following:

(A) A 3-year plan, beginning with the fiscal year for the budget request, that specifies the amount of funding and other resources to be provided by the United States for PSI-related activities over the term of the plan, including the purposes for which such funding and resources will be used.

(B) For the report submitted in 2008, a description of the PSI-related activities carried out during the 3 fiscal years preceding the year of the report, and for the report submitted in 2009 and each year thereafter, a description of the PSI-related activities carried out during the fiscal year preceding the year of the report. The description shall include, for each fiscal year covered by the report—

(i) the amounts obligated and expended for such activities and the purposes for which such amounts were obligated and expended;

(ii) a description of the participation of each department or agency of the United States Government in such activities;

(iii) a description of the participation of each foreign country or entity in such activities;

(iv) a description of any assistance provided to a foreign country or entity participating in such activities in order to secure such participation, in response to such participation, or in order to improve the quality of such participation; and

(v) such other information as the Secretary of Defense and the Secretary of State determine should be included to keep Congress fully informed of the operation and activities of the PSI.

(3) CLASSIFICATION.—The report required by paragraph (2) shall be in an unclassified form but may include a classified annex as necessary.

(c) IMPLEMENTATION REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives and the Committee on Armed Services and the Committee on Foreign Relations of the Senate a report on the implementation of this section. The report shall include—

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Law 84–885; 22 U.S.C. 2651a(a)(4)). See *Legislation on Foreign Relations Through 2008*, vol. II–A, p. xx.

(1) the steps taken to implement the recommendations described in paragraph (3) of subsection (a); and

(2) the progress made toward implementing the matters described in paragraphs (1), (2), and (4) of subsection (a).

(d) GAO REPORTS.—The Government Accountability Office shall submit to Congress, for each of fiscal years 2007, 2009, and 2011, a report with its assessment of the progress and effectiveness of the PSI, which shall include an assessment of the measures referred to in subsection (a).

**SEC. 1822.[7] AUTHORITY TO PROVIDE ASSISTANCE TO COOPERATIVE COUNTRIES.**

(a) IN GENERAL.—The President is authorized to provide assistance under subsection (b) to any country that cooperates with the United States and with other countries allied with the United States to prevent the transport and transshipment of items of proliferation concern in its national territory or airspace or in vessels under its control or registry.

(b) TYPES OF ASSISTANCE.—The assistance authorized under subsection (a) consists of the following:

(1) Assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

(2) Assistance under chapters 4 (22 U.S.C. 2346 et seq.) and 5 (22 U.S.C. 2347 et seq.) of part II of the Foreign Assistance Act of 1961.

(3) Drawdown of defense excess defense articles and services under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(c) CONGRESSIONAL NOTIFICATION.—Assistance authorized under this section may not be provided until at least 30 days after the date on which the President has provided notice thereof to the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate, in accordance with the procedures applicable to reprogramming notifications under section 634A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1(a)), and has certified to such committees that such assistance will be used in accordance with the requirement of subsection (e) of this section.

(d) LIMITATION.—Assistance may be provided to a country under subsection (a) in no more than 3 fiscal years.

(e) USE OF ASSISTANCE.—Assistance provided under this section shall be used to enhance the capability of the recipient country to prevent the transport and transshipment of items of proliferation concern in its national territory or airspace, or in vessels under its control or registry, including through the development of a legal framework in that country to enhance such capability by criminalizing proliferation, enacting strict export controls, and securing sensitive materials within its borders, and to enhance the ability of the recipient country to cooperate in PSI operations.

(f) LIMITATION ON SHIP OR AIRCRAFT TRANSFERS.—

[7] 50 U.S.C. 2912.

(1) LIMITATION.—Except as provided in paragraph (2), the President may not transfer any excess defense article that is a vessel or an aircraft to a country that has not agreed, in connection with such transfer, that it will support and assist efforts by the United States, consistent with international law, to interdict items of proliferation concern until 30 days after the date on which the President has provided notice of the proposed transfer to the committees described in subsection (c) in accordance with the procedures applicable to reprogramming notifications under section 634A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1(a)), in addition to any other requirement of law.

(2) EXCEPTION.—The limitation in paragraph (1) shall not apply to any transfer, not involving significant military equipment, in which the primary use of the aircraft or vessel will be for counternarcotics, counterterrorism, or counterproliferation purposes.

## Subtitle C—Assistance to Accelerate Programs to Prevent Weapons of Mass Destruction Proliferation and Terrorism

**SEC. 1831.[8] STATEMENT OF POLICY.**

It shall be the policy of the United States, consistent with the 9/11 Commission's recommendations, to eliminate any obstacles to timely obligating and executing the full amount of any appropriated funds for threat reduction and nonproliferation programs in order to accelerate and strengthen progress on preventing weapons of mass destruction (WMD) proliferation and terrorism. Such policy shall be implemented with concrete measures, such as those described in this title, including the removal and modification of statutory limits to executing funds, the expansion and strengthening of the Proliferation Security Initiative, the establishment of the Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism under subtitle D, and the establishment of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism under subtitle E. As a result, Congress intends that any funds authorized to be appropriated to programs for preventing WMD proliferation and terrorism under this subtitle will be executed in a timely manner.

**SEC. 1832.[9] AUTHORIZATION OF APPROPRIATIONS FOR THE DEPARTMENT OF DEFENSE COOPERATIVE THREAT REDUCTION PROGRAM.**

(a) FISCAL YEAR 2008.—

(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated to the Department of Defense Cooperative Threat Reduction Program such sums as may be necessary for fiscal year 2008 for the following purposes:

(A) Chemical weapons destruction at Shchuch'ye, Russia.

(B) Biological weapons proliferation prevention.

(C) Acceleration, expansion, and strengthening of Cooperative Threat Reduction Program activities.

[8] 50 U.S.C. 2921.
[9] 50 U.S.C. 2922.

(2) LIMITATION.—The sums appropriated pursuant to paragraph (1) may not exceed the amounts authorized to be appropriated by any national defense authorization Act for fiscal year 2008 (whether enacted before or after the date of the enactment of this Act) to the Department of Defense Cooperative Threat Reduction Program for such purposes.

(b) FUTURE YEARS.—It is the sense of Congress that in fiscal year 2008 and future fiscal years, the President should accelerate and expand funding for Cooperative Threat Reduction programs administered by the Department of Defense and such efforts should include, beginning upon enactment of this Act, encouraging additional commitments by the Russian Federation and other partner nations, as recommended by the 9/11 Commission.

**SEC. 1833.[10] AUTHORIZATION OF APPROPRIATIONS FOR THE DEPARTMENT OF ENERGY PROGRAMS TO PREVENT WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM.**

(a) IN GENERAL.—Subject to subsection (b), there are authorized to be appropriated to Department of Energy National Nuclear Security Administration Defense Nuclear Nonproliferation such sums as may be necessary for fiscal year 2008 to accelerate, expand, and strengthen the following programs to prevent weapons of mass destruction (WMD) proliferation and terrorism:

(1) The Global Threat Reduction Initiative.

(2) The Nonproliferation and International Security program.

(3) The International Materials Protection, Control and Accounting program.

(4) The Nonproliferation and Verification Research and Development program.

(b) LIMITATION.—The sums appropriated pursuant to subsection (a) may not exceed the amounts authorized to be appropriated by any national defense authorization Act for fiscal year 2008 (whether enacted before or after the date of the enactment of this Act) to Department of Energy National Nuclear Security Administration Defense Nuclear Nonproliferation for such purposes.

## Subtitle D—Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism

**SEC. 1841.[11] OFFICE OF THE UNITED STATES COORDINATOR FOR THE PREVENTION OF WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM.**

(a) ESTABLISHMENT.—There is established within the Executive Office of the President an office to be known as the "Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism" (in this section referred to as the "Office").

(b) OFFICERS.—

(1) UNITED STATES COORDINATOR.—The head of the Office shall be the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism (in this section referred to as the "Coordinator").

[10] 50 U.S.C. 2923.
[11] 50 U.S.C. 2931.

(2) DEPUTY UNITED STATES COORDINATOR.—There shall be a Deputy United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism (in this section referred to as the "Deputy Coordinator"), who shall—

(A) assist the Coordinator in carrying out the responsibilities of the Coordinator under this subtitle; and

(B) serve as Acting Coordinator in the absence of the Coordinator and during any vacancy in the office of Coordinator.

(3) APPOINTMENT.—The Coordinator and Deputy Coordinator shall be appointed by the President, by and with the advice and consent of the Senate, and shall be responsible on a full-time basis for the duties and responsibilities described in this section.

(4) LIMITATION.—No person shall serve as Coordinator or Deputy Coordinator while serving in any other position in the Federal Government.

(5) ACCESS BY CONGRESS.—The establishment of the Office of the Coordinator within the Executive Office of the President shall not be construed as affecting access by the Congress or committees of either House to—

(A) information, documents, and studies in the possession of, or conducted by or at the direction of, the Coordinator; or

(B) personnel of the Office of the Coordinator.

(c) DUTIES.—The responsibilities of the Coordinator shall include the following:

(1) Serving as the principal advisor to the President on all matters relating to the prevention of weapons of mass destruction (WMD) proliferation and terrorism.

(2) Formulating a comprehensive and well-coordinated United States strategy and policies for preventing WMD proliferation and terrorism, including—

(A) measurable milestones and targets to which departments and agencies can be held accountable;

(B) identification of gaps, duplication, and other inefficiencies in existing activities, initiatives, and programs and the steps necessary to overcome these obstacles;

(C) plans for preserving the nuclear security investment the United States has made in Russia, the former Soviet Union, and other countries;

(D) prioritized plans to accelerate, strengthen, and expand the scope of existing initiatives and programs, which include identification of vulnerable sites and material and the corresponding actions necessary to eliminate such vulnerabilities;

(E) new and innovative initiatives and programs to address emerging challenges and strengthen United States capabilities, including programs to attract and retain top scientists and engineers and strengthen the capabilities of United States national laboratories;

(F) plans to coordinate United States activities, initiatives, and programs relating to the prevention of WMD

proliferation and terrorism, including those of the Department of Energy, the Department of Defense, the Department of State, and the Department of Homeland Security, and including the Proliferation Security Initiative, the G-8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction, United Nations Security Council Resolution 1540, and the Global Initiative to Combat Nuclear Terrorism;

(G) plans to strengthen United States commitments to international regimes and significantly improve cooperation with other countries relating to the prevention of WMD proliferation and terrorism, with particular emphasis on work with the international community to develop laws and an international legal regime with universal jurisdiction to enable any state in the world to interdict and prosecute smugglers of WMD material, as recommended by the 9/11 Commission; and

(H) identification of actions necessary to implement the recommendations of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism established under subtitle E of this title.

(3) Leading inter-agency coordination of United States efforts to implement the strategy and policies described in this section.

(4) Conducting oversight and evaluation of accelerated and strengthened implementation of initiatives and programs to prevent WMD proliferation and terrorism by relevant government departments and agencies.

(5) Overseeing the development of a comprehensive and coordinated budget for programs and initiatives to prevent WMD proliferation and terrorism, ensuring that such budget adequately reflects the priority of the challenges and is effectively executed, and carrying out other appropriate budgetary authorities.

(d) STAFF.—The Coordinator may—

(1) appoint, employ, fix compensation, and terminate such personnel as may be necessary to enable the Coordinator to perform his or her duties under this title;

(2) direct, with the concurrence of the Secretary of a department or head of an agency, the temporary reassignment within the Federal Government of personnel employed by such department or agency, in order to implement United States policy with regard to the prevention of WMD proliferation and terrorism;

(3) use for administrative purposes, on a reimbursable basis, the available services, equipment, personnel, and facilities of Federal, State, and local agencies;

(4) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, relating to appointments in the Federal Service, at rates of compensation for individuals not to exceed the daily equivalentof the rate of pay payable for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code; and

(5) use the mails in the same manner as any other department or agency of the executive branch.

(e) CONSULTATION WITH COMMISSION.—The Office and the Coordinator shall regularly consult with and strive to implement the recommendations of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism, established under subtitle E of this title.

(f) ANNUAL REPORT ON STRATEGIC PLAN.—For fiscal year 2009 and each fiscal year thereafter, the Coordinator shall submit to Congress, at the same time as the submission of the budget for that fiscal year under title 31, United States Code, a report on the strategy and policies developed pursuant to subsection (c)(2), together with any recommendations of the Coordinator for legislative changes that the Coordinator considers appropriate with respect to such strategy and policies and their implementation or the Office of the Coordinator.

(g) PARTICIPATION IN NATIONAL SECURITY COUNCIL AND HOMELAND SECURITY COUNCIL.—Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended— * * *

**SEC. 1842.[12] SENSE OF CONGRESS ON UNITED STATES-RUSSIA COOPERATION AND COORDINATION ON THE PREVENTION OF WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM.**

It is the sense of the Congress that, as soon as practical, the President should engage the President of the Russian Federation in a discussion of the purposes and goals for the establishment of the Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism (in this section referred to as the "Office"), the authorities and responsibilities of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism (in this section referred to as the "United States Coordinator"), and the importance of strong cooperation between the United States Coordinator and a senior official of the Russian Federation having authorities and responsibilities for preventing weapons of mass destruction proliferation and terrorism commensurate with those of the United States Coordinator, and with whom the United States Coordinator should coordinate planning and implementation of activities within and outside of the Russian Federation having the purpose of preventing weapons of mass destruction proliferation and terrorism.

## Subtitle E—Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism

**SEC. 1851. ESTABLISHMENT OF COMMISSION ON THE PREVENTION OF WEAPONS OF MASS DESTRUCTION PROLIFERATION AND TERRORISM.**

There is established the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism (in this subtitle referred to as the "Commission").

**SEC. 1852. PURPOSES OF COMMISSION.**

(a) IN GENERAL.—The purposes of the Commission are to—

[12] 50 U.S.C. 2932.

(1) assess current activities, initiatives, and programs to prevent weapons of mass destruction proliferation and terrorism; and

(2) provide a clear and comprehensive strategy and concrete recommendations for such activities, initiatives, and programs.

(b) IN PARTICULAR.—The Commission shall give particular attention to activities, initiatives, and programs to secure all nuclear weapons-usable material around the world and to significantly accelerate, expand, and strengthen, on an urgent basis, United States and international efforts to prevent, stop, and counter the spread of nuclear weapons capabilities and related equipment, material, and technology to terrorists and states of concern.

**SEC. 1853. COMPOSITION OF COMMISSION.**

(a) MEMBERS.—The Commission shall be composed of 9 members, of whom—

(1) 1 member shall be appointed by the leader of the Senate of the Democratic Party (majority or minority leader, as the case may be), with the concurrence of the leader of the House of Representatives of the Democratic party (majority or minority leader as the case may be), who shall serve as chairman of the Commission;

(2) 2 members shall be appointed by the senior member of the Senate leadership of the Democratic party;

(3) 2 members shall be appointed by the senior member of the Senate leadership of the Republican party;

(4) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Democratic party; and

(5) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican party.

(b) QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with significant depth of experience in the nonproliferation or arms control fields.

(c) DEADLINE FOR APPOINTMENT.—All members of the Commission shall be appointed within 90 days of the date of the enactment of this Act.

(d) INITIAL MEETING.—The Commission shall meet and begin the operations of the Commission as soon as practicable.

(e) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chairman or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

**SEC. 1854. RESPONSIBILITIES OF COMMISSION.**

(a) IN GENERAL.—The Commission shall address—

(1) the roles, missions, and structure of all relevant government departments, agencies, and other actors, including the Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism established under subtitle D of this title;

(2) inter-agency coordination;

(3) United States commitments to international regimes and cooperation with other countries; and

(4) the threat of weapons of mass destruction proliferation and terrorism to the United States and its interests and allies, including the threat posed by black-market networks, and the effectiveness of the responses by the United States and the international community to such threats.

(b) FOLLOW-ON BAKER-CUTLER REPORT.—The Commission shall also reassess, and where necessary update and expand on, the conclusions and recommendations of the report titled "A Report Card on the Department of Energy's Nonproliferation Programs with Russia" of January 2001 (also known as the "Baker-Cutler Report") and implementation of such recommendations.

**SEC. 1855. POWERS OF COMMISSION.**

(a) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this subtitle, hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Commission or such designated subcommittee or designated member may determine advisable.

(b) CONTRACTING.—-The Commission may, to such extent and in such amounts as are provided in appropriations Acts, enter into contracts to enable the Commission to discharge its duties under this subtitle.

(c) STAFF OF COMMISSION.—

(1) APPOINTMENT AND COMPENSATION.—The chairman of the Commission, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any employees of the Commission shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(3) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(4) CONSULTANT SERVICES.—The Commission may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(5) EMPHASIS ON SECURITY CLEARANCES.—Emphasis shall be made to hire employees and retain contractors and detailees with active security clearances.

(d) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government, information, suggestions, estimates, and statistics for the purposes of this subtitle. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairman, the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(2) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders.

(e) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(g) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

**SEC. 1856. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**

(a) IN GENERAL.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(b) PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF REPORTS.—The Commission shall—

(1) hold public hearings and meetings to the extent appropriate; and

(2) release public versions of the report required under section 1857.

(c) PUBLIC HEARINGS.—Any public hearings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or Executive order.

**SEC. 1857. REPORT.**

Not later than 180 days after the appointment of the Commission, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

**SEC. 1858. TERMINATION.**

(a) IN GENERAL.—The Commission, and all the authorities of this subtitle, shall terminate 60 days after the date on which the final report is submitted under section 1857.

(b) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in subsection (a) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its report and disseminating the final report.

**SEC. 1859. FUNDING.**

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for the purposes of the activities of the Commission under this title.

(b) DURATION OF AVAILABILITY.—Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

## b. United States Additional Protocol Implementation Act

**Partial text of Public Law 109–401 [Title II of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006; H.R. 5682], 120 Stat. 2741, approved December 18, 2006**

AN ACT To exempt from certain requirements of the Atomic Energy Act of 1954 a proposed nuclear agreement for cooperation with India.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

* * * * * * *

## TITLE II—UNITED STATES ADDITIONAL PROTOCOL IMPLEMENTATION

**SEC. 201.[1] SHORT TITLE.**

This title may be cited as the "United States Additional Protocol Implementation Act".

**SEC. 202.[2] FINDINGS.**

Congress makes the following findings:

(1) The proliferation of nuclear weapons and other nuclear explosive devices poses a grave threat to the national security of the United States and its vital national interests.

(2) The Nuclear Non-Proliferation Treaty has proven critical to limiting such proliferation.

(3) For the Nuclear Non-Proliferation Treaty to be effective, each of the non-nuclear-weapon State Parties must conclude a comprehensive safeguards agreement with the IAEA, and such agreements must be honored and enforced.

(4) Recent events emphasize the urgency of strengthening the effectiveness and improving the efficiency of the safeguards system. This can best be accomplished by providing IAEA inspectors with more information about, and broader access to, nuclear activities within the territory of non-nuclear-weapon State Parties.

(5) The proposed scope of such expanded information and access has been negotiated by the member states of the IAEA in the form of a Model Additional Protocol to its existing safeguards agreements, and universal acceptance of Additional Protocols by non-nuclear weapons states is essential to enhancing the effectiveness of the Nuclear Non-Proliferation Treaty.

(6) On June 12, 1998, the United States, as a nuclear-weapon State Party, signed an Additional Protocol that is based on the Model Additional Protocol, but which also contains measures, consistent with its existing safeguards agreements with

[1] 22 U.S.C. 8101 note.
[2] 22 U.S.C. 8101.

its members, that protect the right of the United States to exclude the application of IAEA safeguards to locations and activities with direct national security significance or to locations or information associated with such activities.

(7) Implementation of the Additional Protocol in the United States in a manner consistent with United States obligations under the Nuclear Non-Proliferation Treaty may encourage other parties to the Nuclear Non-Proliferation Treaty, especially non-nuclear-weapon State Parties, to conclude Additional Protocols and thereby strengthen the Nuclear Non-Proliferation Treaty safeguards system and help reduce the threat of nuclear proliferation, which is of direct and substantial benefit to the United States.

(8) Implementation of the Additional Protocol by the United States is not required and is completely voluntary given its status as a nuclear-weapon State Party, but the United States has acceded to the Additional Protocol to demonstrate its commitment to the nuclear nonproliferation regime and to make United States civil nuclear activities available to the same IAEA inspections as are applied in the case of non-nuclear-weapon State Parties.

(9) In accordance with the national security exclusion contained in Article 1.b of its Additional Protocol, the United States will not allow any inspection activities, nor make any declaration of any information with respect to, locations, information, and activities of direct national security significance to the United States.

(10) Implementation of the Additional Protocol will conform to the principles set forth in the letter of April 30, 2002, from the United States Permanent Representative to the International Atomic Energy Agency and the Vienna Office of the United Nations to the Director General of the International Atomic Energy Agency.

**SEC. 203.[3] DEFINITIONS.**

In this title:

(1) ADDITIONAL PROTOCOL.—The term "Additional Protocol", when used in the singular form, means the Protocol Additional to the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America, with Annexes, signed at Vienna June 12, 1998 (T. Doc. 107-7).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate and the Committee on Armed Services, the Committee on International Relations, the Committee on Science, and the Committee on Appropriations of the House of Representatives.

(3) COMPLEMENTARY ACCESS.—The term "complementary access" means the exercise of the IAEA's access rights as set forth in Articles 4 to 6 of the Additional Protocol.

[3] 22 U.S.C. 8102.

(4) EXECUTIVE AGENCY.—The term "executive agency" has the meaning given such term in section 105 of title 5, United States Code.

(5) FACILITY.—-The term "facility" has the meaning set forth in Article 18i. of the Additional Protocol.

(6) IAEA.—The term "IAEA" means the International Atomic Energy Agency.

(7) JUDGE OF THE UNITED STATES.—The term "judge of the United States" means a United States district judge, or a United States magistrate judge appointed under the authority of chapter 43 of title 28, United States Code.

(8) LOCATION.—The term "location" means any geographic point or area declared or identified by the United States or specified by the International Atomic Energy Agency.

(9) NUCLEAR NON-PROLIFERATION TREATY.—The term "Nuclear Non-Proliferation Treaty" means the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (21 UST 483).

(10) NUCLEAR-WEAPON STATE PARTY AND NON-NUCLEAR-WEAPON STATE PARTY.—The terms "nuclear-weapon State Party" and "non-nuclear-weapon State Party" have the meanings given such terms in the Nuclear Non-Proliferation Treaty.

(11) PERSON.—The term "person", except as otherwise provided, means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality, or political subdivision of any such government or nation, or other entity located in the United States.

(12) SITE.—The term "site" has the meaning set forth in Article 18b. of the Additional Protocol.

(13) UNITED STATES.—The term "United States", when used as a geographic reference, means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States and includes all places under the jurisdiction or control of the United States, including—

(A) the territorial sea and the overlying airspace;

(B) any civil aircraft of the United States or public aircraft, as such terms are defined in paragraphs (17) and (41), respectively, of section 40102(a) of title 49, United States Code; and

(C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(b)).

(14) WIDE-AREA ENVIRONMENTAL SAMPLING.—The term "wide-area environmental sampling" has the meaning set forth in Article 18g. of the Additional Protocol.

**SEC. 204.[4] SEVERABILITY.**

If any provision of this title, or the application of such provision to any person or circumstance, is held invalid, the remainder of this title, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

## Subtitle A—General Provisions

**SEC. 211.[5] AUTHORITY.**

(a)[6] IN GENERAL.—The President is authorized to implement and carry out the provisions of this title and the Additional Protocol and shall designate through Executive order which executive agency or agencies of the United States, which may include but are not limited to the Department of State, the Department of Defense, the Department of Justice, the Department of Commerce, the Department of Energy, and the Nuclear Regulatory Commission, shall issue or amend and enforce regulations in order to implement this title and the provisions of the Additional Protocol.

(b) INCLUDED AUTHORITY.—For any executive agency designated under subsection (a) that does not currently possess the authority to conduct site vulnerability assessments and related activities, the authority provided in subsection (a) includes such authority.

(c) EXCEPTION.—The authority described in subsection (b) does not supersede or otherwise modify any existing authority of any Federal department or agency already having such authority.

## Subtitle B—Complementary Access

**SEC. 221.[7] REQUIREMENT FOR AUTHORITY TO CONDUCT COMPLEMENTARY ACCESS.**

(a) PROHIBITION.—No complementary access to any location in the United States shall take place pursuant to the Additional Protocol without the authorization of the United States Government in accordance with the requirements of this title.

(b) AUTHORITY.—

(1) IN GENERAL.—Complementary access to any location in the United States subject to access under the Additional Protocol is authorized in accordance with this title.

(2) UNITED STATES REPRESENTATIVES.—

(A) RESTRICTIONS.—In the event of complementary access to a privately owned or operated location, no employee of the Environmental Protection Agency or of the Mine Safety and Health Administration or the Occupational Safety and Health Administration of the Department of Labor may participate in the access.

(B) NUMBER.—The number of designated United States representatives accompanying IAEA inspectors shall be kept to the minimum necessary.

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[4] 22 U.S.C. 8103.

[5] 22 U.S.C. 8111.

[6] The President made executive agency designations of authority in Executive Order 13458. See "Executive Orders Concerning Nonproliferation of Weapons of Mass Destruction", this volume, for the full text of Executive Order 13458.

[7] 22 U.S.C. 8121.

**SEC. 222.[8] PROCEDURES FOR COMPLEMENTARY ACCESS.**

(a) IN GENERAL.—Each instance of complementary access to a location in the United States under the Additional Protocol shall be conducted in accordance with this subtitle.

(b) NOTICE.—

(1) IN GENERAL.—Complementary access referred to in subsection (a) may occur only upon the issuance of an actual written notice by the United States Government to the owner, operator, occupant, or agent in charge of the location to be subject to complementary access.

(2) TIME OF NOTIFICATION.—The notice under paragraph (1) shall be submitted to such owner, operator, occupant, or agent as soon as possible after the United States Government has received notification that the IAEA seeks complementary access. Notices may be posted prominently at the location if the United States Government is unable to provide actual written notice to such owner, operator, occupant, or agent.

(3) CONTENT OF NOTICE.—

(A) IN GENERAL.—The notice required by paragraph (1) shall specify—

(i) the purpose for the complementary access;

(ii) the basis for the selection of the facility, site, or other location for the complementary access sought;

(iii) the activities that will be carried out during the complementary access;

(iv) the time and date that the complementary access is expected to begin, and the anticipated period covered by the complementary access; and

(v) the names and titles of the inspectors.

(4) SEPARATE NOTICES REQUIRED.—A separate notice shall be provided each time that complementary access is sought by the IAEA.

(c) CREDENTIALS.—The complementary access team of the IAEA and representatives or designees of the United States Government shall display appropriate identifying credentials to the owner, operator, occupant, or agent in charge of the location before gaining entry in connection with complementary access.

(d) SCOPE.—

(1) IN GENERAL.—Except as provided in a warrant issued under section 223, and subject to the rights of the United States Government under the Additional Protocol to limit complementary access, complementary access to a location pursuant to this title may extend to all activities specifically permitted for such locations under Article 6 of the Additional Protocol.

(2) EXCEPTION.—Unless required by the Additional Protocol, no inspection under this title shall extend to—

(A) financial data (other than production data);

(B) sales and marketing data (other than shipment data);

(C) pricing data;

(D) personnel data;

[8] 22 U.S.C. 8122.

(E) patent data;

(F) data maintained for compliance with environmental or occupational health and safety regulations; or

(G) research data.

(e) ENVIRONMENT, HEALTH, SAFETY, AND SECURITY.—In carrying out their activities, members of the IAEA complementary access team and representatives or designees of the United States Government shall observe applicable environmental, health, safety, and security regulations established at the location subject to complementary access, including those for protection of controlled environments within a facility and for personal safety.

**SEC. 223.[9] CONSENTS, WARRANTS, AND COMPLEMENTARY ACCESS.**

(a) IN GENERAL.—

(1) PROCEDURE.—

(A) CONSENT.—Except as provided in paragraph (2), an appropriate official of the United States Government shall seek or have the consent of the owner, operator, occupant, or agent in charge of a location prior to entering that location in connection with complementary access pursuant to sections 221 and 222. The owner, operator, occupant, or agent in charge of the location may withhold consent for any reason or no reason.

(B) ADMINISTRATIVE SEARCH WARRANT.—In the absence of consent, the United States Government may seek an administrative search warrant from a judge of the United States under subsection (b). Proceedings regarding the issuance of an administrative search warrant shall be conducted ex parte, unless otherwise requested by the United States Government.

(2) EXPEDITED ACCESS.—For purposes of obtaining access to a location pursuant to Article 4b.(ii) of the Additional Protocol in order to satisfy United States obligations under the Additional Protocol when notice of two hours or less is required, the United States Government may gain entry to such location in connection with complementary access, to the extent such access is consistent with the Fourth Amendment to the United States Constitution, without obtaining either a warrant or consent.

(b) ADMINISTRATIVE SEARCH WARRANTS FOR COMPLEMENTARY ACCESS.—

(1) OBTAINING ADMINISTRATIVE SEARCH WARRANTS.—For complementary access conducted in the United States pursuant to the Additional Protocol, and for which the acquisition of a warrant is required, the United States Government shall first obtain an administrative search warrant from a judge of the United States. The United States Government shall provide to such judge all appropriate information regarding the basis for the selection of the facility, site, or other location to which complementary access is sought.

(2) CONTENT OF AFFIDAVITS FOR ADMINISTRATIVE SEARCH WARRANTS.—A judge of the United States shall promptly issue an administrative search warrant authorizing the requested

[9] 22 U.S.C. 8123.

complementary access upon an affidavit submitted by the United States Government—

(A) stating that the Additional Protocol is in force;

(B) stating that the designated facility, site, or other location is subject to complementary access under the Additional Protocol;

(C) stating that the purpose of the complementary access is consistent with Article 4 of the Additional Protocol;

(D) stating that the requested complementary access is in accordance with Article 4 of the Additional Protocol;

(E) containing assurances that the scope of the IAEA's complementary access, as well as what it may collect, shall be limited to the access provided for in Article 6 of the Additional Protocol;

(F) listing the items, documents, and areas to be searched and seized;

(G) stating the earliest commencement and the anticipated duration of the complementary access period, as well as the expected times of day during which such complementary access will take place; and

(H) stating that the location to which entry in connection with complementary access is sought was selected either—

(i) because there is probable cause, on the basis of specific evidence, to believe that information required to be reported regarding a location pursuant to regulations promulgated under this title is incorrect or incomplete, and that the location to be accessed contains evidence regarding that violation; or

(ii) pursuant to a reasonable general administrative plan based upon specific neutral criteria.

(3) CONTENT OF WARRANTS.—A warrant issued under paragraph (2) shall specify the same matters required of an affidavit under that paragraph. In addition, each warrant shall contain the identities of the representatives of the IAEA on the complementary access team and the identities of the representatives or designees of the United States Government required to display identifying credentials under section 222(c).

**SEC. 224.[10] PROHIBITED ACTS RELATING TO COMPLEMENTARY ACCESS.**

It shall be unlawful for any person willfully to fail or refuse to permit, or to disrupt, delay, or otherwise impede, a complementary access authorized by this subtitle or an entry in connection with such access.

## Subtitle C—Confidentiality of Information

**SEC. 231.[11] PROTECTION OF CONFIDENTIALITY OF INFORMATION.**

Information reported to, or otherwise acquired by, the United States Government under this title or under the Additional Protocol shall be exempt from disclosure under section 552 of title 5, United States Code.

[10] 22 U.S.C. 8124.
[11] 22 U.S.C. 8131.

## Subtitle D—Enforcement

**SEC. 241.[12] RECORDKEEPING VIOLATIONS.**

It shall be unlawful for any person willfully to fail or refuse—

(1) to establish or maintain any record required by any regulation prescribed under this title;

(2) to submit any report, notice, or other information to the United States Government in accordance with any regulation prescribed under this title; or

(3) to permit access to or copying of any record by the United States Government in accordance with any regulation prescribed under this title.

**SEC. 242.[13] PENALTIES.**

(a) CIVIL.—

(1) PENALTY AMOUNTS.—Any person that is determined, in accordance with paragraph (2), to have violated section 224 or section 241 shall be required by order to pay a civil penalty in an amount not to exceed $25,000 for each violation. For the purposes of this paragraph, each day during which a violation of section 224 continues shall constitute a separate violation of that section.

(2) NOTICE AND HEARING.—

(A) IN GENERAL.—Before imposing a penalty against a person under paragraph (1), the head of an executive agency designated under section 211(a) shall provide the person with notice of the order. If, within 15 days after receiving the notice, the person requests a hearing, the head of the designated executive agency shall initiate a hearing on the violation.

(B) CONDUCT OF HEARING.—Any hearing so requested shall be conducted before an administrative judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. If no hearing is so requested, the order imposed by the head of the designated agency shall constitute a final agency action.

(C) ISSUANCE OF ORDERS.—If the administrative judge determines, upon the preponderance of the evidence received, that a person named in the complaint has violated section 224 or section 241, the administrative judge shall state the findings of fact and conclusions of law, and issue and serve on such person an order described in paragraph (1).

(D) FACTORS FOR DETERMINATION OF PENALTY AMOUNTS.—In determining the amount of any civil penalty, the administrative judge or the head of the designated agency shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, the ability to pay, effect on ability to continue to do business, any history of such violations, the degree of culpability, the existence of

[12] 22 U.S.C. 8141.
[13] 22 U.S.C. 8142.

an internal compliance program, and such other matters as justice may require.

(E) CONTENT OF NOTICE.—For the purposes of this paragraph, notice shall be in writing and shall be verifiably served upon the person or persons subject to an order described in paragraph (1). In addition, the notice shall—

(i) set forth the time, date, and specific nature of the alleged violation or violations; and

(ii) specify the administrative and judicial remedies available to the person or persons subject to the order, including the availability of a hearing and subsequent appeal.

(3) ADMINISTRATIVE APPELLATE REVIEW.—The decision and order of an administrative judge shall be the recommended decision and order and shall be referred to the head of the designated executive agency for final decision and order. If, within 60 days, the head of the designated executive agency does not modify or vacate the decision and order, it shall become a final agency action under this subsection.

(4) JUDICIAL REVIEW.—A person adversely affected by a final order may, within 30 days after the date the final order is issued, file a petition in the Court of Appeals for the District of Columbia Circuit or in the Court of Appeals for the district in which the violation occurred.

(5) ENFORCEMENT OF FINAL ORDERS.—

(A) IN GENERAL.—If a person fails to comply with a final order issued against such person under this subsection and—

(i) the person has not filed a petition for judicial review of the order in accordance with paragraph (4), or

(ii) a court in an action brought under paragraph (4) has entered a final judgment in favor of the designated executive agency,

the head of the designated executive agency shall commence a civil action to seek compliance with the final order in any appropriate district court of the United States.

(B) NO REVIEW.—In any such civil action, the validity and appropriateness of the final order shall not be subject to review.

(C) INTEREST.—Payment of penalties assessed in a final order under this section shall include interest at currently prevailing rates calculated from the date of expiration of the 60-day period referred to in paragraph (3) or the date of such final order, as the case may be.

(b) CRIMINAL.—Any person who violates section 224 or section 241 may, in addition to or in lieu of any civil penalty which may be imposed under subsection (a) for such violation, be fined under title 18, United States Code, imprisoned for not more than five years, or both.

**SEC. 243.[14] SPECIFIC ENFORCEMENT.**

(a) JURISDICTION.—The district courts of the United States shall have jurisdiction over civil actions brought by the head of an executive agency designated under section 211(a)—

(1) to restrain any conduct in violation of section 224 or section 241; or

(2) to compel the taking of any action required by or under this title or the Additional Protocol.

(b) CIVIL ACTIONS.—

(1) IN GENERAL.—A civil action described in subsection (a) may be brought—

(A) in the case of a civil action described in paragraph (1) of such subsection, in the United States district court for the judicial district in which any act, omission, or transaction constituting a violation of section 224 or section 241 occurred or in which the defendant is found or transacts business; or

(B) in the case of a civil action described in paragraph (2) of such subsection, in the United States district court for the judicial district in which the defendant is found or transacts business.

(2) SERVICE OF PROCESS.—In any such civil action, process shall be served on a defendant wherever the defendant may reside or may be found.

## Subtitle E—Environmental Sampling

**SEC. 251.[15] NOTIFICATION TO CONGRESS OF IAEA BOARD APPROVAL OF WIDE-AREA ENVIRONMENTAL SAMPLING.**

(a) IN GENERAL.—Not later than 30 days after the date on which the Board of Governors of the IAEA approves wide-area environmental sampling for use as a safeguards verification tool, the President shall notify the appropriate congressional committees.

(b) CONTENT.—The notification under subsection (a) shall contain—

(1) a description of the specific methods and sampling techniques approved by the Board of Governors that are to be employed for purposes of wide-area sampling;

(2) a statement as to whether or not such sampling may be conducted in the United States under the Additional Protocol; and

(3) an assessment of the ability of the approved methods and sampling techniques to detect, identify, and determine the conduct, type, and nature of nuclear activities.

**SEC. 252.[16] APPLICATION OF NATIONAL SECURITY EXCLUSION TO WIDE-AREA ENVIRONMENTAL SAMPLING.**

In accordance with Article 1(b) of the Additional Protocol, the United States shall not permit any wide-area environmental sampling proposed by the IAEA to be conducted at a specified location in the United States under Article 9 of the Additional Protocol unless the President has determined and reported to the appropriate

[14] 22 U.S.C. 8143.
[15] 22 U.S.C. 8151.
[16] 22 U.S.C. 8152.

congressional committees with respect to that proposed use of environmental sampling that—

(1) the proposed use of wide-area environmental sampling is necessary to increase the capability of the IAEA to detect undeclared nuclear activities in the territory of a non-nuclear-weapon State Party;

(2) the proposed use of wide-area environmental sampling will not result in access by the IAEA to locations, activities, or information of direct national security significance; and

(3) the United States—

(A) has been provided sufficient opportunity for consultation with the IAEA if the IAEA has requested complementary access involving wide-area environmental sampling; or

(B) has requested under Article 8 of the Additional Protocol that the IAEA engage in complementary access in the United States that involves the use of wide-area environmental sampling.

**SEC. 254.[17] RULE OF CONSTRUCTION.**

As used in this subtitle, the term "necessary to increase the capability of the IAEA to detect undeclared nuclear activities in the territory of a non-nuclear-weapon State Party" shall not be construed to encompass proposed uses of environmental sampling that might assist the IAEA in detecting undeclared nuclear activities in the territory of a non-nuclear-weapon State Party by—

(1) setting a good example of cooperation in the conduct of such sampling; or

(2) facilitating the formation of a political consensus or political support for such sampling in the territory of a non-nuclear-weapon State Party.

## Subtitle F—Protection of National Security Information and Activities

**SEC. 261.[18] PROTECTION OF CERTAIN INFORMATION.**

(a) LOCATIONS AND FACILITIES OF DIRECT NATIONAL SECURITY SIGNIFICANCE.—No current or former Department of Defense or Department of Energy location, site, or facility of direct national security significance shall be declared or be subject to IAEA inspection under the Additional Protocol.

(b) INFORMATION OF DIRECT NATIONAL SECURITY SIGNIFICANCE.—No information of direct national security significance regarding any location, site, or facility associated with activities of the Department of Defense or the Department of Energy shall be provided under the Additional Protocol.

(c) RESTRICTED DATA.—Nothing in this title shall be construed to permit the communication or disclosure to the IAEA or IAEA employees of restricted data controlled by the provisions of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), including in particular "Restricted Data" as defined under paragraph (1) of section 11 y. of such Act (42 U.S.C. 2014(y)).

[17] 22 U.S.C. 8154.
[18] 22 U.S.C. 8161.

(d) CLASSIFIED INFORMATION.—Nothing in this Act shall be construed to permit the communication or disclosure to the IAEA or IAEA employees of national security information and other classified information.

**SEC. 262.[19] IAEA INSPECTIONS AND VISITS.**

(a) CERTAIN INDIVIDUALS PROHIBITED FROM OBTAINING ACCESS.—No national of a country designated by the Secretary of State under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) as a government supporting acts of international terrorism shall be permitted access to the United States to carry out an inspection activity under the Additional Protocol or a related safeguards agreement.

(b) PRESENCE OF UNITED STATES GOVERNMENT PERSONNEL.—IAEA inspectors shall be accompanied at all times by United States Government personnel when inspecting sites, locations, facilities, or activities in the United States under the Additional Protocol.

(c) VULNERABILITY AND RELATED ASSESSMENTS.—The President shall conduct vulnerability, counterintelligence, and related assessments not less than every 5 years to ensure that information of direct national security significance remains protected at all sites, locations, facilities, and activities in the United States that are subject to IAEA inspection under the Additional Protocol.

## Subtitle G—Reports

**SEC. 271.[20] REPORT ON INITIAL UNITED STATES DECLARATION.**

Not later than 60 days before submitting the initial United States declaration to the IAEA under the Additional Protocol, the President shall submit to Congress a list of the sites, locations, facilities, and activities in the United States that the President intends to declare to the IAEA, and a report thereon.

**SEC. 272.[21] REPORT ON REVISIONS TO INITIAL UNITED STATES DECLARATION.**

Not later than 60 days before submitting to the IAEA any revisions to the United States declaration submitted under the Additional Protocol, the President shall submit to Congress a list of any sites, locations, facilities, or activities in the United States that the President intends to add to or remove from the declaration, and a report thereon.

**SEC. 273.[22] CONTENT OF REPORTS ON UNITED STATES DECLARATIONS.**

The reports required under section 271 and section 272 shall present the reasons for each site, location, facility, and activity being declared or being removed from the declaration list and shall certify that—

(1) each site, location, facility, and activity included in the list has been examined by each agency with national security equities with respect to such site, location, facility, or activity; and

[19] 22 U.S.C. 8162.
[20] 22 U.S.C. 8171.
[21] 22 U.S.C. 8172.
[22] 22 U.S.C. 8173.

(2) appropriate measures have been taken to ensure that information of direct national security significance will not be compromised at any such site, location, facility, or activity in connection with an IAEA inspection.

**SEC. 274.[23] REPORT ON EFFORTS TO PROMOTE THE IMPLEMENTATION OF ADDITIONAL PROTOCOLS.**

Not later than 180 days after the entry into force of the Additional Protocol, the President shall submit to the appropriate congressional committees a report on—

(1) measures that have been or should be taken to achieve the adoption of additional protocols to existing safeguards agreements signed by non-nuclear-weapon State Parties; and

(2) assistance that has been or should be provided by the United States to the IAEA in order to promote the effective implementation of additional protocols to existing safeguards agreements signed by non-nuclear-weapon State Parties and the verification of the compliance of such parties with IAEA obligations, with a plan for providing any needed additional funding.

**SEC. 275.[24] NOTICE OF IAEA NOTIFICATIONS.**

The President shall notify Congress of any notifications issued by the IAEA to the United States under Article 10 of the Additional Protocol.

## Subtitle H—Authorization of Appropriations

**SEC. 281.[25] AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out this title.

[23] 22 U.S.C. 8174.
[24] 22 U.S.C. 8175.
[25] 22 U.S.C. 8181.

## c. Iran Nonproliferation Amendments Act of 2005 [1]

**Partial text of Public Law 109–112 [S. 1713], 119 Stat. 2366, approved November 22, 2005**

AN ACT To make amendments to the Iran Nonproliferation Act of 2000 related to International Space Station payments, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Iran Nonproliferation Amendments Act of 2005".

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) The Director of Central Intelligence's most recent Unclassified Report to Congress on the Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions, 1 July Through 31 December 2003, states "Russian entities during the reporting period continued to supply a variety of ballistic missile-related goods and technical know-how to countries such as Iran, India, and China. Iran's earlier success in gaining technology and materials from Russian entities helped accelerate Iranian development of the Shahab-3 MRBM, and continuing Russian entity assistance has supported Iranian efforts to develop new missiles and increase Tehran's self-sufficiency in missile production."

(2) Vice Admiral Lowell E. Jacoby, the Director of the Defense Intelligence Agency, stated in testimony before the Select Committee on Intelligence of the Senate on February 16, 2005, that "Tehran probably will have the ability to produce nuclear weapons early in the next decade".

(3) Iran has—

(A) failed to act in accordance with the Agreement Between Iran and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, done at Vienna June 19, 1973 (commonly referred to as the "Safeguards Agreement");

(B) acted in a manner inconsistent with the Protocol Additional to the Agreement Between Iran and the International Atomic Energy Agency for the Application of Safeguards, signed at Vienna December 18, 2003 (commonly referred to as the "Additional Protocol");

(C) acted in a manner inconsistent with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July

[1] 50 U.S.C. 1701 note.

1, 1968, and entered into force March 5, 1970 (commonly referred to as the "Nuclear Non-Proliferation Treaty"); and (D) resumed uranium conversion activities, thus ending the confidence building measures it adopted in its November 2003 agreement with the foreign ministers of the United Kingdom, France, and Germany.

(4) On September 24, 2005, the Board of Governors of the International Atomic Energy Agency (IAEA) formally declared that Iranian actions constituted noncompliance with its nuclear safeguards obligations, and that Iran's history of concealment of its nuclear activities has given rise to questions that are within the purview of the United Nations Security Council.

(5) The executive branch has on multiple occasions used the authority provided under section 3 of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 50 U.S.C. 1701 note) to impose sanctions on entities that have engaged in activities in violation of restrictions in the Act relating to—

(A) the export of equipment and technology controlled under multilateral export control lists, including under the Australia Group, Chemical Weapons Convention, Missile Technology Control Regime, Nuclear Suppliers Group, and the Wassenaar Arrangement or otherwise having the potential to make a material contribution to the development of weapons of mass destruction or cruise or ballistic missile systems to Iran; and

(B) the export of other items to Iran with the potential of making a material contribution to Iran's weapons of mass destruction programs or on United States national control lists for reasons related to the proliferation of weapons of mass destruction or missiles.

(6) The executive branch has never made a determination pursuant to section 6(b) of the Iran Nonproliferation Act of 2000 that—

(A) it is the policy of the Government of the Russian Federation to oppose the proliferation to Iran of weapons of mass destruction and missile systems capable of delivering such weapons;

(B) the Government of the Russian Federation (including the law enforcement, export promotion, export control, and intelligence agencies of such government) has demonstrated and continues to demonstrate a sustained commitment to seek out and prevent the transfer to Iran of goods, services, and technology that could make a material contribution to the development of nuclear, biological, or chemical weapons, or of ballistic or cruise missile systems; and

(C) no entity under the jurisdiction or control of the Government of the Russian Federation, has, during the 1-year period prior to the date of the determination pursuant to section 6(b) of such Act, made transfers to Iran reportable under section 2(a) of the Act.

(7) On June 29, 2005, President George W. Bush issued Executive Order 13382 blocking property of weapons of mass destruction proliferators and their supporters, and used the authority of such order against 4 Iranian entities, Aerospace Industries Organization, Shahid Hemmat Industrial Group, Shahid Bakeri Industrial Group, and the Atomic Energy Organization of Iran, that have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including efforts to manufacture, acquire, possess, develop, transport, transfer, or use such items.

**SEC. 3. AMENDMENTS TO IRAN NONPROLIFERATION ACT OF 2000 RELATED TO INTERNATIONAL SPACE STATION PAYMENTS.**

(a) TREATMENT OF CERTAIN PAYMENTS.—Section 7(1)(B) of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 50 U.S.C. 1701 note) is amended—* * *

**SEC. 4. AMENDMENTS TO THE IRAN NONPROLIFERATION ACT OF 2000 TO MAKE SUCH ACT APPLICABLE TO IRAN AND SYRIA.**

(a) REPORTS ON PROLIFERATION RELATING TO IRAN OR SYRIA.—Section 2 of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 50 U.S.C. 1701 note) is amended—* * *

(b)–(d) * * *

(e) SHORT TITLE.—

(1) AMENDMENT.—Section 1 of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 50 U.S.C. 1701 note) is amended * * *

(2)[2] REFERENCES.—Any reference in a law, regulation, document, or other record of the United States to the Iran Nonproliferation Act of 2000 shall be deemed to be a reference to the Iran and Syria Nonproliferation Act.

[2] 22 U.S.C. 2797b note; 50 U.S.C. 1701 note.

## d. Nuclear Security Initiative Act of 2003

**Partial text of Public Law 108–136 [title XXXVI of division C of the National Defense Authorization Act for Fiscal Year 2004; H.R. 1588], 117 Stat. 1392, approved November 24, 2003**

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# DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

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## TITLE XXXVI—NUCLEAR SECURITY INITIATIVE


Sec. 3601. Short title.

**Subtitle A—Administration and Oversight of Threat Reduction and Nonproliferation Programs**

Sec. 3611. Management assessment of Department of Defense and Department of Energy threat reduction and nonproliferation programs.

**Subtitle B—Relations Between the United States and Russia**

Sec. 3621. Comprehensive inventory of Russian tactical nuclear weapons.
Sec. 3622. Establishment of interparliamentary Threat Reduction Working Group.
Sec. 3623. Sense of Congress on cooperation by United States and NATO with Russia on ballistic missile defenses.
Sec. 3624. Sense of Congress on enhanced collaboration to achieve more reliable Russian early warning systems.

**Subtitle C—Other Matters**

Sec. 3631. Promotion of discussions on nuclear and radiological security and safety between the International Atomic Energy Agency and the Organization for Economic Cooperation and Development.


**SEC. 3601.[1] SHORT TITLE.**

This title may be cited as the "Nuclear Security Initiative Act of 2003".

### Subtitle A—Administration and Oversight of Threat Reduction and Nonproliferation Programs

**SEC. 3611. MANAGEMENT ASSESSMENT OF DEPARTMENT OF DEFENSE AND DEPARTMENT OF ENERGY THREAT REDUCTION AND NONPROLIFERATION PROGRAMS.**

(a) GAO ASSESSMENT REQUIRED.—The Comptroller General shall carry out an assessment of the management of the threat reduction and nonproliferation programs of the Department of Defense and the Department of Energy. The matters assessed shall include—

(1) the effectiveness of the overall strategy used for managing such programs;

[1] 22 U.S.C. 5951 note.

(2) the basis used to allocate the missions of such programs among the executive departments and agencies;

(3) the criteria used to assess the effectiveness of such programs;

(4) the strategy and process used to establish priorities for activities carried out under such programs, including the analysis of risks and benefits used in determining how best to allocate the funds made available for such programs;

(5) the mechanisms used to coordinate the activities carried out under such programs by the executive departments and agencies so as to ensure efficient execution and avoid duplication of effort; and

(6) the management controls used in carrying out such programs and the effect of such controls on the execution of such programs.

(b) CONSIDERATIONS.—In carrying out the assessment required by subsection (a), the Comptroller General shall take into account—

(1) the national security interests of the United States; and

(2) the need for accountability in expenditure of funds by the United States.

(c) REPORT.—Not later than May 1, 2004, the Comptroller General shall submit a report on the assessment required by subsection (a) to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate.

(d) DEFINITIONS.—In this section:

(1) The term "threat reduction and nonproliferation programs of the Department of Defense and the Department of Energy" means—

(A) the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note); and

(B) any programs for which funds are made available under the defense nuclear nonproliferation account of the Department of Energy.

(2) The term "management controls" means any accounting, oversight, or other measure intended to ensure that programs are executed consistent with—

(A) programmatic objectives as stated in budget justification materials submitted to Congress (as submitted with the budget of the President under section 1105(a) of title 31, United States Code); and

(B) any restrictions related to such objectives as are imposed by law.

## Subtitle B—Relations Between the United States and Russia

**SEC. 3621.[2] COMPREHENSIVE INVENTORY OF RUSSIAN TACTICAL NUCLEAR WEAPONS.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States should, to the extent the President considers prudent, seek to work with the Russian Federation to develop a comprehensive inventory of Russian tactical nuclear weapons.

(b) REPORT.—Not later than 12 months after the date of the enactment of this Act, the President shall submit to Congress a report, in both classified and unclassified form as necessary, describing the progress that has been made toward creating such an inventory.

**SEC. 3622.[3] ESTABLISHMENT OF INTERPARLIAMENTARY THREAT REDUCTION WORKING GROUP.**

(a) ESTABLISHMENT OF WORKING GROUP.—There is hereby established a working group to be known as the "Threat Reduction Working Group" as an interparliamentary group of the Congress of the United States and the legislature of the Russian Federation.

(b) PURPOSE OF WORKING GROUP.—The purpose of the working group established by subsection (a) shall be to explore means to enhance cooperation between the United States and the Russian Federation with respect to nuclear nonproliferation and security and such other issues related to reducing the dangers of weapons of mass destruction as the members of the working group consider appropriate.

(c) MEMBERSHIP.—(1) The majority leader of the Senate, after consultation with the minority leader of the Senate, shall appoint not more than 10 Senators to the working group established by subsection (a).

(2) The Speaker of the House of Representatives, after consultation with the minority leader of the House of Representatives, shall appoint not more than 30 Members of the House to the working group.

**SEC. 3623.[4] SENSE OF CONGRESS ON COOPERATION BY UNITED STATES AND NATO WITH RUSSIA ON BALLISTIC MISSILE DEFENSES.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that the President should, in conjunction with the North Atlantic Treaty Organization, encourage appropriate cooperative relationships between the Russian Federation and the United States and North Atlantic Treaty Organization with respect to the development and deployment of ballistic missile defenses.

(b) REPORT TO CONGRESS.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall transmit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report (in unclassified or classified form as necessary) on the feasibility of increasing cooperation between the Russian Federation and the United States and the North Atlantic Treaty Organization

[2] 22 U.S.C. 5959 note.
[3] 22 U.S.C. 5951 note.
[4] 22 U.S.C. 1928 note.

on the subject of ballistic missile defense. The report shall include—

(1) the recommendations of the Secretary;

(2) a description of the threat such cooperation is intended to address; and

(3) an assessment of possible benefits to ballistic missile defense programs of the United States.

**SEC. 3624. SENSE OF CONGRESS ON ENHANCED COLLABORATION TO ACHIEVE MORE RELIABLE RUSSIAN EARLY WARNING SYSTEMS.**

It is the sense of Congress that the President, to the extent consistent with the national security interests of the United States, should—

(1) encourage joint efforts by the United States and the Russian Federation to reduce the probability of accidental nuclear attack as a result of misinformation or miscalculation by developing the capabilities and increasing the reliability of Russian ballistic missile early-warning systems;

(2) encourage the development of joint programs by the United States and the Russian Federation to ensure that the Russian Federation has reliable information regarding launches of ballistic missiles anywhere in the world; and

(3) pending the execution of a new agreement between the United States and the Russian Federation providing for the conduct of the Russian-American Observation Satellite (RAMOS) program, ensure that funds appropriated for that program for fiscal year 2004 are obligated and expended in a manner that provides for the satisfactory continuation of that program.

## Subtitle C—Other Matters

**SEC. 3631.[5] PROMOTION OF DISCUSSIONS ON NUCLEAR AND RADIOLOGICAL SECURITY AND SAFETY BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY AND THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT.**

(a) SENSE OF CONGRESS REGARDING INITIATION OF DIALOGUE BETWEEN THE IAEA AND THE OECD.—It is the sense of Congress that—

(1) the United States should seek to initiate discussions between the International Atomic Energy Agency and the Organization for Economic Cooperation and Development for the purpose of exploring issues of nuclear and radiological security and safety, including the creation of new sources of revenue (including debt reduction) for states to provide nuclear security; and

(2) the discussions referred to in paragraph (1) should also provide a forum to explore possible sources of funds in support of the G–8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction.

(b) CONTINGENT REPORT.—(1) Except as provided in paragraph (2), the President shall, not later than 12 months after the date of the enactment of this Act, submit to Congress a report on—

[5] 22 U.S.C. 6321 note.

(A) the efforts made by the United States to initiate the discussions described in subsection (a);

(B) the results of those efforts; and

(C) any plans for further discussions and the purposes of such discussions.

(2) Paragraph (1) shall not apply if no efforts referred to in paragraph (1)(A) have been made.

## e. Nonproliferation and Export Control Assistance, 2003

**Partial text of Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002**

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# TITLE XIII—NONPROLIFERATION AND EXPORT CONTROL ASSISTANCE

## Subtitle A—General Provisions

**SEC. 1301. AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION.—Section 585 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb–4) is amended— * * *[1]

(b) SUBALLOCATIONS.—Of the amount authorized to be appropriated to the President for fiscal year 2003 by section 585 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb–4)—

(1) $2,000,000 is authorized to be available for such fiscal year for the purpose of carrying out section 584 of the Foreign Assistance Act of 1961, as added by section 1303 of this Act; and

(2) $65,000,000 for fiscal year 2003 are authorized to be available for science and technology centers in the independent states of the former Soviet Union.

(c) CONFORMING AMENDMENT.—Section 302 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 853) is repealed.

(d) FURTHER AUTHORIZATION.—There is authorized to be appropriated under "Nonproliferation, Anti-terrorism, Demining, and Related Programs" $382,400,000 for fiscal year 2003.

**SEC. 1302.[2] NONPROLIFERATION TECHNOLOGY ACQUISITION PROGRAMS FOR FRIENDLY FOREIGN COUNTRIES.**

(a) IN GENERAL.—For the purpose of enhancing the nonproliferation and export control capabilities of friendly countries, of the amount authorized to be appropriated for fiscal year 2003 by section 585 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb et seq.), the Secretary is authorized to make available—

(1) $5,000,000 for the procurement and provision of nuclear, chemical, and biological detection systems, including spectroscopic and pulse echo technologies; and

(2) $10,000,000 for the procurement and provision of x-ray systems capable of imaging sea-cargo containers.

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[1] The Foreign Assistance Act of 1961 is located in *Legislation on Foreign Relations Through 2008*, vol. I–A. Sec. 1303 of Public Law 107–228 redesignated sec. 585 as sec. 586. As redesignated, sec. 586 of the Foreign Assistance Act concerns the authorization of appropriations for chapter 9 of Part II of that Act, entitled "Nonproliferation and Export Control Assistance".

[2] 22 U.S.C. 2349bb note.

(b)[3] REPORTS ON TRAINING PROGRAM.—

(1) INITIAL REPORT.—Not later than March 31, 2003, the Secretary shall submit a report to the appropriate congressional committees setting forth his plans and budget for a multiyear training program to train foreign personnel in the utilization of the systems described in subsection (a).

(2) SUBSEQUENT REPORTS.—Not later than March 31, 2004, and annually thereafter for the next three years, the Secretary shall submit a report to the appropriate congressional committees describing the progress, current status, and budget of that training program and of the provision of those systems.

**SEC. 1303. INTERNATIONAL NONPROLIFERATION AND EXPORT CONTROL TRAINING.**

Chapter 9 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb et seq.) is amended—* * *[4]

**SEC. 1304. RELOCATION OF SCIENTISTS.**

(a) REINSTATEMENT OF CLASSIFICATION AUTHORITY.—Section 4 of the Soviet Scientists Immigration Act of 1992 (Public Law 102–509; 106 Stat. 3316; 8 U.S.C. 1153 note) is amended * * *

(b) * * *

(c) LIMITATION ON ELIGIBILITY.—Section 4(a) of that Act (8 U.S.C. 1153 note) is amended * * *

(d)[5] CONSULTATION REQUIREMENT.—The Attorney General shall consult with the Secretary, the Secretary of Defense, the Secretary of Energy, and the heads of other appropriate agencies of the United States regarding—

(1) previous experience in implementing the Soviet Scientists Immigration Act of 1992; and

(2) any changes that those officials would recommend in the regulations prescribed under that Act.

**SEC. 1305. INTERNATIONAL ATOMIC ENERGY AGENCY REGULAR BUDGET ASSESSMENTS AND VOLUNTARY CONTRIBUTIONS.**

(a) FINDINGS.—Congress makes the following findings:

(1) The Department has concluded that the International Atomic Energy Agency (in this section referred to as the "IAEA") is a critical and effective instrument for verifying compliance with international nuclear nonproliferation agreements, and that it serves as an essential barrier to the spread of nuclear weapons.

(2) The IAEA furthers United States national security objectives by helping to prevent the proliferation of nuclear weapons material, especially through its work on effective verification and safeguards measures.

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[3] In Delegation of Authority 291, dated April 7, 2006 (71 F.R. 20432; April 20, 2006), the Secretary of State delegated the authority to approve the submission of reports under this subsection to the Under Secretary of State for Arms Control and International Security.

[4] Sec. 1303 redesignated secs. 584 and 585 of the Foreign Assistance Act of 1961 as secs. 585 and 586, and added a new sec. 584, which deals with nonproliferation and export control training to military and civilian personnel of foreign countries. See *Legislation on Foreign Relations Through 2008*, vol. I–A.

[5] 8 U.S.C. 1153 note.

(3) The IAEA can also perform a critical role in monitoring and verifying aspects of nuclear weapons reduction agreements between nuclear weapons states.

(4) The IAEA has adopted a multifaceted action plan, to be funded by voluntary contributions, to address the threats posed by radioactive sources that could be used in a radiological weapon and will be the leading international agency in this effort.

(5) As the IAEA has negotiated and developed more effective verification and safeguards measures, it has experienced significant real growth in its mission, especially in the vital area of nuclear safeguards inspections.

(6) Nearly two decades of zero budget growth have affected the ability of the IAEA to carry out its mission and to hire and retain the most qualified inspectors and managers, as evidenced in the decreasing proportion of such personnel who hold doctorate degrees.

(7) Increased voluntary contributions by the United States will be needed if the IAEA is to increase its safeguards activities and also to implement its action plan to address the worldwide risks posed by lost or poorly secured radioactive sources.

(8) Although voluntary contributions by the United States lessen the IAEA's budgetary constraints, they cannot readily be used for the long-term capital investments or permanent staff increases necessary to an effective IAEA safeguards regime.

(9) The recent United States decision to accept a 25 percent IAEA regular budget assessment was based upon a correct interpretation of existing law. It was not the intent of Congress that the United States contributions to all United Nations-related organizations and activities be reduced pursuant to the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted into law by section 1000(a)(7) of Public Law 106–113; 113 Stat. 1501A–405 et seq.), which sets 22 percent assessment rates as benchmarks for the general United Nations budget, the Food and Agricultural Organization, the World Health Organization, and the International Labor Organization. Rather, contributions for an important and effective agency such as the IAEA should be maintained at levels commensurate with the criticality of its mission.

(10) The Secretary should negotiate a gradual and sustained increase in the regular budget of the International Atomic Energy Agency, which should begin with the 2004 budget.

(b) AUTHORIZATION OF APPROPRIATIONS.—Of the funds authorized to be appropriated for Nonproliferation, Anti-terrorism, Demining, and Related Programs there is authorized to be appropriated $60,000,000 for fiscal year 2003 for a United States voluntary contribution to the International Atomic Energy Agency, including for the purpose of implementing the Protection Against Nuclear Terrorism program adopted by the International Atomic Energy Agency Board of Governors in March 2002.

**SEC. 1306. AMENDMENTS TO THE IRAN NONPROLIFERATION ACT OF 2000.**

(a) REPORTS ON PROLIFERATION TO IRAN.—Section 2 of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 114 Stat. 39; 50 U.S.C. 1701 note) is amended * * *

(b) * * *

**SEC. 1307. AMENDMENTS TO THE NORTH KOREA THREAT REDUCTION ACT OF 1999.**

(a) RESTRICTIONS.—Section 822(a) of the North Korea Threat Reduction Act of 1999 (subtitle B of title VIII of division A of H.R. 3427, as enacted into law by section 1000(a)(7) of Public Law 106–113; appendix G; 113 Stat. 1501A–472) is amended * * *

(b) * * *

**SEC. 1308.[6,7] ANNUAL REPORTS ON THE PROLIFERATION OF MISSILES AND ESSENTIAL COMPONENTS OF NUCLEAR, BIOLOGICAL, CHEMICAL, AND RADIOLOGICAL WEAPONS.**

(a) REPORT.—Not later than March 1, 2003, and annually thereafter, the President[8] shall transmit to the designated congressional committees an annual report on the transfer by any country of weapons, technology, components, or materials that can be used to deliver, manufacture (including research and experimentation), or weaponize nuclear, biological, chemical or radiological weapons (in this section referred to as "NBC weapons") to any country other than a country referred to in subsection (d) that is seeking to possess or otherwise acquire such weapons, technology, or materials, or other system that the Secretary or the Secretary of Defense has reason to believe could be used to develop, acquire, or deliver NBC weapons.

(b) MATTERS TO BE INCLUDED.—Each such report shall include—

(1) the transfer of all aircraft, cruise missiles, artillery weapons, unguided rockets and multiple rocket systems, and related bombs, shells, warheads and other weaponization technology and materials that the Secretary or the Secretary of Defense has reason to believe may be intended for the delivery of NBC weapons;

(2) international transfers of MTCR equipment or technology to any country that is seeking to acquire such equipment or any other system that the Secretary or the Secretary of Defense has reason to believe may be used to deliver NBC weapons; and

(3) the transfer of technology, test equipment, radioactive materials, feedstocks and cultures, and all other specialized materials that the Secretary or the Secretary of Defense has reason to believe could be used to manufacture NBC weapons.

(c) CONTENT OF REPORT.—Each such report shall include the following with respect to preceding calendar year:

(1) The status of missile, aircraft, and other NBC weapons delivery and weaponization programs in any such country, including efforts by such country or by any subnational group to

[6] 50 U.S.C. 2368.

[7] In Delegation of Authority 304 dated February 16, 2006 (73 F.R. 25822; May 7, 2008), the Secretary of State delegated to the Under Secretary of State for Arms Control and International Security the authority to approve submission of the report to Congress required in sec. 1308.

[8] In sec. 1(a)(13) of Executive Order 13313 of July 31, 2003 (68 F.R. 46073; August 5, 2003), the President assigned the reporting duties in subsec. (a) to the Secretary of State.

acquire MTCR-controlled equipment, NBC-capable aircraft, or any other weapon or major weapon component which may be utilized in the delivery of NBC weapons, whose primary use is the delivery of NBC weapons, or that the Secretary or the Secretary of Defense has reason to believe could be used to deliver NBC weapons.

(2) The status of NBC weapons development, acquisition, manufacture, stockpiling, and deployment programs in any such country, including efforts by such country or by any subnational group to acquire essential test equipment, manufacturing equipment and technology, weaponization equipment and technology, and radioactive material, feedstocks or components of feedstocks, and biological cultures and toxins.

(3) A description of assistance provided by any person or government, after the date of the enactment of this Act, to any such country or subnational group in the acquisition or development of—

(A) NBC weapons;

(B) missile systems, as defined in the MTCR or that the Secretary or the Secretary of Defense has reason to believe may be used to deliver NBC weapons; and

(C) aircraft and other delivery systems and weapons that the Secretary or the Secretary of Defense has reason to believe could be used to deliver NBC weapons.

(4) A listing of those persons and countries that continue to provide such equipment or technology described in paragraph (3) to any country or subnational group as of the date of submission of the report, including the extent to which foreign persons and countries were found to have knowingly and materiallyassisted such programs.

(5) A description of the use of, or substantial preparations to use, the equipment of technology described in paragraph (3) by any foreign country or subnational group.

(6) A description of the diplomatic measures that the United States, and that other adherents to the MTCR and other arrangements affecting the acquisition and delivery of NBC weapons, have made with respect to activities and private persons and governments suspected of violating the MTCR and such other arrangements.

(7) An analysis of the effectiveness of the regulatory and enforcement regimes of the United States and other countries that adhere to the MTCR and other arrangements affecting the acquisition and delivery of NBC weapons in controlling the export of MTCR and other NBC weapons and delivery system equipment or technology.

(8) A summary of advisory opinions issued under section 11B(b)(4) of the Export Administration Act of 1979 (50 U.S.C. App. 2401b(b)(4)) and under section 73(d) of the Arms Export Control Act (22 U.S.C. 2797b(d)).

(9) An explanation of United States policy regarding the transfer of MTCR equipment or technology to foreign missile programs, including programs involving launches of space vehicles.

(10) A description of each transfer by any person or government during the preceding 12-month period which is subject to sanctions under the Iran-Iraq Arms Non-Proliferation Act of 1992 (title XVI of Public Law 102–484).

(d) EXCLUSIONS.—The countries excluded under subsection (a) are Australia, Belgium, Canada, the Czech Republic, Denmark, France, Germany, Greece, Hungary, Iceland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Turkey, the United Kingdom, and the United States.

(e) CLASSIFICATION OF REPORT.—The Secretary shall make every effort to submit all of the information required by this section in unclassified form. Whenever the Secretary submits any such information in classified form, the Secretary shall submit such classified information in an addendum and shall also submit concurrently a detailed summary, in unclassified form, of that classified information.

(f) DEFINITIONS.—In this section:

(1) DESIGNATED CONGRESSIONAL COMMITTEES.—The term "designated congressional committees" means—

(A) the Committee on Appropriations, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives; and

(B) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate.

(2) MISSILE; MTCR; MTCR EQUIPMENT OR TECHNOLOGY.—The terms "missile", "MTCR", and "MTCR equipment or technology" have the meanings given those terms in section 74 of the Arms Export Control Act (22 U.S.C. 2797c).

(3) PERSON.—The term "person" means any United States or foreign individual, partnership, corporation, or other form of association, or any of its successor entities, parents, or subsidiaries.

(4) WEAPONIZE; WEAPONIZATION.—The term "weaponize" or "weaponization" means to incorporate into, or the incorporation into, usable ordnance or other militarily useful means of delivery.

(g) REPEALS.—

(1) IN GENERAL.—The following provisions of law are repealed:

(A) Section 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (22 U.S.C. 2751 note).

(B) Section 308 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (22 U.S.C. 5606).

(C) Section 1607(a) of the Iran-Iraq Arms Non-Proliferation Act of 1992 (Public Law 102–484).[9]

(D) Paragraph (d) of section 585 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (as contained in section 101(c) of title

[9] 50 U.S.C. 1701 note.

I of division A of Public Law 104–208; 110 Stat. 3009–171).[10]

(2) CONFORMING AMENDMENTS.—Section 585 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997,[10] is amended—* * *

**SEC. 1309. THREE-YEAR INTERNATIONAL ARMS CONTROL AND NONPROLIFERATION STRATEGY.**

Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit to the appropriate congressional committees a 3-year international arms control and nonproliferation strategy. The strategy shall contain the following:

(1) A 3-year plan for the reduction of existing nuclear, chemical, and biological weapons and ballistic missiles and for controlling the proliferation of these weapons.

(2) Identification of the goals and objectives of the United States with respect to arms control and nonproliferation of weapons of mass destruction and their delivery systems.

(3) A description of the programs, projects, and activities of the Department of State intended to accomplish goals and objectives described in paragraph (2).

[10] 22 U.S.C. 2656 note.

## f. Russian Federation Debt Reduction for Nonproliferation Act of 2002

**Partial text of Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002**

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## TITLE XIII—NONPROLIFERATION AND EXPORT CONTROL ASSISTANCE

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### Subtitle B—Russian Federation Debt Reduction for Nonproliferation

**SEC. 1311.[1] SHORT TITLE.**

This subtitle may be cited as the "Russian Federation Debt for Nonproliferation Act of 2002".

**SEC. 1312.[1] FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds the following:

(1) It is in the vital security interests of the United States to prevent the spread of weapons of mass destruction to additional states or to terrorist organizations, and to ensure that other nations' obligations to modify their stockpiles of such arms in accordance with treaties, executive agreements, or political commitments are fulfilled.

(2) In particular, it is in the vital national security interests of the United States to ensure that—

(A) all stocks of nuclear weapons and weapons-usable nuclear material in the Russian Federation are secure and accounted for;

(B) stocks of nuclear weapons and weapons-usable nuclear material that are excess to military needs in the Russian Federation are monitored and reduced;

(C) any chemical or biological weapons, related materials, and facilities in the Russian Federation are destroyed;

(D) the Russian Federation's nuclear weapons complex is reduced to a size appropriate to its post-Cold War missions, and its experts in weapons of mass destruction technologies are shifted to gainful and sustainable civilian employment;

(E) the Russian Federation's export control system blocks any proliferation of weapons of mass destruction, the means of delivering such weapons, and materials, equipment, know-how, or technology that would be used to develop, produce, or deliver such weapons; and

[1] 22 U.S.C. 5952 note.

(F) these objectives are accomplished with sufficient monitoring and transparency to provide confidence that they have in fact been accomplished and that the funds provided to accomplish these objectives have been spent efficiently and effectively.

(3) United States programs should be designed to accomplish these vital objectives in the Russian Federation as rapidly as possible, and the President should develop and present to Congress a plan for doing so.

(4) Substantial progress has been made in United States-Russian Federation cooperative programs to achieve these objectives, but much more remains to be done to reduce the urgent risks to United States national security posed by the current state of the Russian Federation's weapons of mass destruction stockpiles and complexes.

(5) The threats posed by inadequate management of weapons of mass destruction stockpiles and complexes in the Russian Federation remain urgent. Incidents in years immediately preceding 2001, which have been cited by the Russia Task Force of the Secretary of Energy Advisory Board, include—

(A) a conspiracy at one of the Russian Federation's largest nuclear weapons facilities to steal nearly enough highly enriched uranium for a nuclear bomb;

(B) an attempt by an employee of the Russian Federation's premier nuclear weapons facility to sell nuclear weapons designs to agents of Iraq and Afghanistan; and

(C) the theft of radioactive material from a Russian Federation submarine base.

(6) Addressing these threats to United States and world security will ultimately consume billions of dollars, a burden that will have to be shared by the Russian Federation, the United States, and other governments, if these threats are to be neutralized.

(7) The creation of new funding streams could accelerate progress in reducing these threats to United States security and help the government of the Russian Federation to fulfill its responsibility for secure management of its weapons stockpiles and complexes as United States assistance phases out.

(8) The Russian Federation has a significant foreign debt, a substantial proportion of which it inherited from the Soviet Union.

(9) Past debt-for-environment exchanges, in which a portion of a country's foreign debt is canceled in return for certain environmental commitments or payments by that country, suggest that a debt-for-nonproliferation exchange with the Russian Federation could be designed to provide additional funding for nonproliferation and arms reduction initiatives.

(10) Most of the Russian Federation's official bilateral debt is held by United States allies that are advanced industrial democracies. Since the issues described pose threats to United States allies as well, United States leadership that results in a larger contribution from United States allies to cooperative threat reduction activities will be needed.

(11) At the June 2002 meeting of the G–8 countries, agreement was achieved on a G–8 Global Partnership against the Spread of Weapons and Materials of Mass Destruction, under which the advanced industrial democracies committed to contribute $20,000,000,000 to nonproliferation programs in the Russian Federation during a 10-year period, with each contributing country having the option to fund some or all of its contribution through reduction in the Russian Federation's official debt to that country.

(12) The Russian Federation's Soviet-era official debt to the United States is estimated to be $480,000,000 in Lend-Lease debt and $2,250,000,000 in debt as a result of credits extended under title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.).

(b) PURPOSES.—The purposes of this subtitle are—

(1) to facilitate the accomplishment of the United States objectives described in the findings set forth in subsection (a) by providing for the use of a portion of the Russian Federation's foreign debt to fund nonproliferation programs, thus allowing the use of additional resources for these purposes; and

(2) to help ensure that the resources made available to the Russian Federation are targeted to the accomplishment of the United States objectives described in the findings set forth in subsection (a).

**SEC. 1313.[1] DEFINITIONS.**

In this subtitle:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(2) COST.—The term "cost" has the meaning given that term in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)).

(3) RUSSIAN FEDERATION NONPROLIFERATION INVESTMENT AGREEMENT OR AGREEMENT.—The term "Russian Federation Nonproliferation Investment Agreement" or "Agreement" means the agreement between the United States and the Russian Federation entered into under section 1315(a).

(4) SOVIET-ERA DEBT.—The term "Soviet-era debt" means debt owed as a result of loans or credits provided by the United States (or any agency of the United States) to the Union of Soviet Socialist Republics under the Lend Lease Act of 1941 or the Commodity Credit Corporation Charter Act.

(5) STATE SPONSOR OF INTERNATIONAL TERRORISM.—The term "state sponsor of international terrorism" means those countries that have been determined by the Secretary of State, for the purposes of section 40 of the Arms Export Control Act, section 620A of the Foreign Assistance Act of 1961, or section 6(j) of the Export Administration Act of 1979, to have repeatedly provided support for acts of international terrorism.

**SEC. 1314.[1] AUTHORITY TO REDUCE THE RUSSIAN FEDERATION'S SOVIET-ERA DEBT OBLIGATIONS TO THE UNITED STATES.**

(a) AUTHORITY TO REDUCE DEBT.—

(1) IN GENERAL.—Upon the entry into force of a Russian Federation Nonproliferation Investment Agreement, the President may reduce amounts of Soviet-era debt owed by the Russian Federation to the United States (or any agency or instrumentality of the United States) that are outstanding as of the last day of the fiscal year preceding the fiscal year for which appropriations are available for the reduction of debt, in accordance with this subtitle.

(2) LIMITATION.—The authority provided by paragraph (1) shall be available only to the extent that appropriations for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of reducing any debt pursuant to such subsection are made in advance.

(3) SUPERSEDES EXISTING LAW.—The authority provided by paragraph (1) may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(r)) or section 321 of the International Development and Food Assistance Act of 1975.

(b) IMPLEMENTATION.—

(1) DELEGATION OF AUTHORITY.—The President may delegate any authority conferred upon the President in this subtitle to the Secretary of State.

(2) ESTABLISHMENT OF TERMS AND CONDITIONS.—Consistent with this subtitle, the President shall establish the terms and conditions under which loans and credits may be reduced pursuant to subsection (a).

(3) IMPLEMENTATION.—In exercising the authority of subsection (a), the President—

(A) shall notify—

(i) the Department of State, with respect to obligations of the former Soviet Union under the Lend Lease Act of 1941; and

(ii) the Commodity Credit Corporation, with respect to obligations of the former Soviet Union under the Commodity Credit Corporation Act;

(B) shall direct the cancellation of old obligations and the substitution of new obligations consistent with the Russian Federation Nonproliferation Investment Agreement; and

(C) shall direct the appropriate agency to make an adjustment in the relevant accounts to reflect the new debt treatment.

(4) DEPOSIT OF REPAYMENTS.—All repayments of outstanding loan amounts under subsection (a) that are not designated under a Russian Federation Nonproliferation Investment Agreement shall be deposited in the United States Government accounts established for repayments of the original obligations.

(5) NOT TREATED AS FOREIGN ASSISTANCE.—Any reduction of Soviet-era debt pursuant to this subtitle shall not be considered assistance for the purposes of any provision of law limiting assistance to a country.

(c) AUTHORIZATION OF APPROPRIATION.—

(1) IN GENERAL.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of modifying any Soviet-era debt obligation pursuant to subsection (a), there are authorized to be appropriated to the President such sums as may be necessary.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

**SEC. 1315.[1] RUSSIAN FEDERATION NONPROLIFERATION INVESTMENT AGREEMENT.**

(a) IN GENERAL.—

(1) IN GENERAL.—The President is authorized to enter into an agreement with the Russian Federation under which an amount equal to the value of the debt reduced pursuant to section 1314 will be used to promote the nonproliferation ofweapons of mass destruction and the means of delivering such weapons. An agreement entered into under this section may be referred to as the "Russian Federation Nonproliferation Investment Agreement".

(2) CONGRESSIONAL NOTIFICATION.—The President shall notify the appropriate congressional committees at least 15 days in advance of the United States entering into a Russian Federation Nonproliferation Investment Agreement.

(b) CONTENT OF THE AGREEMENT.—The Russian Federation Nonproliferation Investment Agreement shall ensure that—

(1) an amount equal to the value of the debt reduced pursuant to this subtitle will be made available by the Russian Federation for agreed nonproliferation programs and projects;

(2) each program or project funded pursuant to the Agreement will be approved by the President;

(3) the administration and oversight of nonproliferation programs and projects will incorporate best practices from established threat reduction and nonproliferation assistance programs;

(4) each program or project funded pursuant to the Agreement will be subject to monitoring and audits conducted by or for the United States Government to confirm that agreed funds are expended on agreed projects and meet agreed targets and benchmarks;

(5) unobligated funds for investments pursuant to the Agreement will not be diverted to other purposes;

(6) funds allocated to programs and projects pursuant to the Agreement will not be subject to any taxation by the Russian Federation;

(7) all matters relating to the intellectual property rights and legal liabilities of United States firms in any project will be agreed upon before the expenditure of funds would be authorized for that project; and

(8) not less than 75 percent of the funds made available for each nonproliferation program or project under the Agreement will be spent in the Russian Federation.

(c) USE OF EXISTING MECHANISMS.—It is the sense of Congress that, to the extent practicable, the boards and administrative

mechanisms of existing threat reduction and nonproliferation programs should be used in the administration and oversight of programs and projects under the Agreement.

(d) JOINT AUDITING.—It is the sense of Congress that the United States and the Russian Federation should consider commissioning the United States General Accounting Office and the Russian Chamber of Accounts to conduct joint audits to ensure that the funds saved by the Russian Federation as a result of any debt reduction are used exclusively, efficiently, and effectively to implement agreed programs or projects pursuant to the Agreement.

(e) STRUCTURE OF THE AGREEMENT.—It is the sense of Congress that the Agreement should provide for significant penalties—

(1) if funds obligated for approved programs or projects are determined to have been misappropriated; and

(2) if the President is unable to make the certification required by section 1317(a) for two consecutive years.

**SEC. 1316.[1] INDEPENDENT MEDIA AND THE RULE OF LAW.**

Notwithstanding section 1315 (a)(1) and (b)(1), up to 10 percent of the amount equal to the value of the debt reduced pursuant to this subtitle may be used to promote a vibrant, independent media sector and the rule of law in the Russian Federation through an endowment to support the establishment of a "Center for an Independent Press and the Rule of Law" in the Russian Federation, which shall be directed by a joint United States-Russian Board of Directors in which the majority of members, including the chairman, shall be United States personnel, and which shall be responsible for management of the endowment, its funds, and the Center's programs.

**SEC. 1317.[1] RESTRICTION ON DEBT REDUCTION AUTHORITY.**

(a) PROLIFERATION TO STATE SPONSORS OF TERRORISM.—Subject to the provisions of subsection (c), the debt reduction authority provided by section 1314 may not be exercised unless and until the President certifies to the appropriate congressional committees that the Russian Federation has made material progress in stemming the flow of sensitive goods, technologies, material, and know-how related to the design, development, and production of weapons of mass destruction and the means to deliver them to state sponsors of international terrorism.

(b) ANNUAL DETERMINATION.—If, in any annual report to Congress submitted pursuant to section 1321, the President cannot certify that the Russian Federation continues to meet the condition required in subsection (a), then, subject to the provisions of subsection (c), the debt reduction authority provided by section 1314 may not be exercised unless and until such certification is made to the appropriate congressional committees.

(c) PRESIDENTIAL WAIVER.—The President may waive the requirements of subsection (a) or (b) for a fiscal year if the President—

(1) determines that application of the subsection for a fiscal year would be counter to the national interest of the United States; and

(2) so reports to the appropriate congressional committees.

**SEC. 1318.[1] DISCUSSION OF RUSSIAN FEDERATION DEBT REDUCTION FOR NONPROLIFERATION WITH OTHER CREDITOR STATES.**

It is the sense of Congress that the President and such other appropriate officials as the President may designate should pursue discussions with other creditor states with the objectives of—

(1) ensuring that other advanced industrial democracies, especially the largest holders of Soviet-era Russian debt, dedicate significant proportions of their bilateral official debt with the Russian Federation or equivalent amounts of direct assistance to the G–8 Global Partnership against the Spread of Weapons and Materials of Mass Destruction, as agreed upon in the Statement by G–8 Leaders on June 27, 2002; and

(2) reaching agreement, as appropriate, to establish a unified Russian Federation official debt reduction fund to manage and provide financial transparency for the resources provided by creditor states through debt reductions.

**SEC. 1319.[1] IMPLEMENTATION OF UNITED STATES POLICY.**

It is the sense of Congress that implementation of debt-for-nonproliferation programs with the Russian Federation should be overseen by the coordinating mechanism established pursuant to section 1334 of this Act.

**SEC. 1320.[1] CONSULTATIONS WITH CONGRESS.**

The President shall consult with the appropriate congressional committees on a periodic basis to review the implementation of this subtitle and the Russian Federation's eligibility for debt reduction pursuant to this subtitle.

**SEC. 1321.[1,2] ANNUAL REPORTS TO CONGRESS.**

Not later than December 31, 2003, and not later than December 31 of each year thereafter, the President shall prepare and transmit to Congress a report concerning actions taken to implement this subtitle during the fiscal year preceding the fiscal year in which the report is transmitted. The report on a fiscal year shall include—

(1) a description of the activities undertaken pursuant to this subtitle during the fiscal year;

(2) a description of the nature and amounts of the loans reduced pursuant to this subtitle during the fiscal year;

(3) a description of any agreement entered into under this subtitle;

(4) a description of the progress during the fiscal year of any projects funded pursuant to this subtitle;

(5) a summary of the results of relevant audits performed in the fiscal year; and

(6) a certification, if appropriate, that the Russian Federation continued to meet the condition required by section 1317(a), and an explanation of why the certification was or was not made.

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[2] In a memorandum to the Secretary of State dated July 18, 2006 (71 F.R. 42747; July 28, 2006), the President assigned the functions of the President under sec. 1321 to the Secretary of State.

## g. Nonproliferation Assistance Coordination Act of 2002

**Partial text of Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002**

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## TITLE XIII—NONPROLIFERATION AND EXPORT CONTROL ASSISTANCE

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### Subtitle C—Nonproliferation Assistance Coordination

**SEC. 1331.[1] SHORT TITLE.**

This subtitle may be cited as the "Nonproliferation Assistance Coordination Act of 2002".

**SEC. 1332.[2] FINDINGS.**

Congress finds that—

(1) United States nonproliferation efforts in the independent states of the former Soviet Union have achieved important results in ensuring that weapons of mass destruction, weapons-usable material and technology, and weapons-related knowledge remain beyond the reach of terrorists and weapons-proliferating states;

(2) although these efforts are in the United States national security interest, the effectiveness of these efforts has suffered from a lack of coordination within and among United States Government agencies;

(3) increased spending and investment by the United States private sector on nonproliferation efforts in the independent states of the former Soviet Union, specifically, spending and investment by the United States private sector in job creation initiatives and proposals for unemployed Russian Federation weapons scientists and technicians, are making an important contribution in ensuring that knowledge related to weapons of mass destruction remains beyond the reach of terrorists and weapons-proliferating states; and

(4) increased spending and investment by the United States private sector on nonproliferation efforts in the independent states of the former Soviet Union make advisable the establishment of a coordinating body to ensure that United States public and private efforts are not in conflict, and to ensure that public spending on efforts by the independent states of the former Soviet Union is maximized to ensure efficiency and further United States national security interests.

[1] 50 U.S.C. 2301 note.
[2] 50 U.S.C. 2357.

**SEC. 1333.[3] DEFINITIONS.**

(a) INDEPENDENT STATES OF THE FORMER SOVIET UNION.—In this subtitle, the term "independent states of the former Soviet Union" has the meaning given the term in section 3 of the FREEDOM Support Act (22 U.S.C. 5801).

(b) APPROPRIATE COMMITTEES OF CONGRESS.—In this subtitle, the term "the appropriate committees of Congress" means the Committees on Foreign Relations, Armed Services, and Appropriations of the Senate and the Committees on International Relations, Armed Services, and Appropriations of the House of Representatives.

**SEC. 1334.[4] ESTABLISHMENT OF COMMITTEE ON NONPROLIFERATION ASSISTANCE.**

(a) IN GENERAL.—The President shall establish a mechanism to coordinate, with the maximum possible effectiveness and efficiency, the efforts of United States Government departments and agencies engaged in formulating policy and carrying out programs for achieving nonproliferation and threat reduction.

(b) MEMBERSHIP.—The coordination mechanism established pursuant to subsection (a) shall include—

(1) representatives designated by—

(A) the Secretary of State;

(B) the Secretary of Defense;

(C) the Secretary of Energy;

(D) the Secretary of Commerce;

(E) the Attorney General; and

(F) the Director of the Office of Homeland Security, or the head of a successor department or agency; and

(2) such other executive branch officials as the President may select.

(c) LEVEL OF REPRESENTATION.—To the maximum extent possible, each department or agency's representative designated pursuant to subsection (b)(1) shall be an official of that department or agency who has been appointed by the President with the advice and consent of the Senate.

(d) CHAIR.—The President shall designate an official to direct the coordination mechanism established pursuant to subsection (a). The official so designated may invite the head of any other department or agency of the United States to designate a representative of that department or agency to participate from time to time in the activities of the Committee.

**SEC. 1335.[5] PURPOSES AND AUTHORITY.**

(a) PURPOSES.—

(1) IN GENERAL.—The primary purpose of the coordination mechanism established pursuant to section 1334 of this Act should be—

(A) to exercise continuing responsibility for coordinating worldwide United States nonproliferation and threat reduction efforts to ensure that they effectively implement United States policy; and

[3] 50 U.S.C. 2357a.
[4] 50 U.S.C. 2357b.
[5] 50 U.S.C. 2357c.

(B) to enhance the ability of participating departments and agencies to anticipate growing nonproliferation areas of concern.

(2) PROGRAM MONITORING AND COORDINATION.—The coordination mechanism established pursuant to section 1334 of this Act should have primary continuing responsibility within the executive branch of the Government for—

(A) United States nonproliferation and threat reduction efforts, and particularly such efforts in the independent states of the former Soviet Union; and

(B) coordinating the implementation of United States policy with respect to such efforts.

(b) AUTHORITY.—In carrying out the responsibilities described in subsection (a), the coordination mechanism established pursuant to section 1334 of this Act should have, at a minimum, the authority to—

(1) establish such subcommittees and working groups as it deems necessary;

(2) direct the preparation of analyses on issues and problems relating to coordination within and among United States departments and agencies on nonproliferation and threat reduction efforts;

(3) direct the preparation of analyses on issues and problems relating to coordination between the United States public and private sectors on nonproliferation and threat reduction efforts, including coordination between public and private spending on nonproliferation and threat reduction programs and coordination between public spending and private investment in defense conversion activities of the independent states of the former Soviet Union;

(4) provide guidance on arrangements that will coordinate, deconflict, and maximize the utility of United States public spending on nonproliferation and threat reduction programs, and particularly such efforts in the independent states of the former Soviet Union;

(5) encourage companies and nongovernmental organizations involved in nonproliferation efforts of the independent states of the former Soviet Union or other countries of concern to voluntarily report these efforts to it;

(6) direct the preparation of analyses on issues and problems relating to the coordination between the United States and other countries with respect to nonproliferation efforts, and particularly such efforts in the independent states of the former Soviet Union; and

(7) consider, and make recommendations to the President with respect to, proposals for such new legislation or regulations relating to United States nonproliferation efforts as may be necessary.

**SEC. 1336.[6] ADMINISTRATIVE SUPPORT.**

All United States departments and agencies shall provide, to the extent permitted by law, such information and assistance as may be requested by the coordination mechanism established pursuant

[6] 50 U.S.C. 2357d.

to section 1334 of this Act, in carrying out its functions and activities under this subtitle.

**SEC. 1337.[7] CONFIDENTIALITY OF INFORMATION.**

Information which has been submitted to or received by the coordination mechanism established pursuant to section 1334 of this Act in confidence shall not be publicly disclosed, except to the extent required by law, and such information shall be used by it only for the purpose of carrying out the functions set forth in this subtitle.

**SEC. 1338.[8] STATUTORY CONSTRUCTION.**

Nothing in this subtitle—

(1) applies to the data-gathering, regulatory, or enforcement authority of any existing United States department or agency over nonproliferation efforts in the independent states of the former Soviet Union, and the review of those efforts undertaken by the coordination mechanism established pursuant to section 1334 of this Act shall not in any way supersede or prejudice any other process provided by law; or

(2) applies to any activity that is reportable pursuant to title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

**SEC. 1339.[9] REPORTING AND CONSULTATION.**

(a) PRESIDENTIAL REPORT.—Not later than 120 days after each inauguration of a President, the President shall submit a report to the Congress on his general and specific nonproliferation and threat reduction objectives and how the efforts of executive branch agencies will be coordinated most effectively, pursuant to section 1334 of this Act, to achieve those objectives.

(b) CONSULTATION.—The President should consult with and brief, from time to time, the appropriate committees of Congress regarding the efficacy of the coordination mechanism established pursuant to section 1334 of this Act in achieving its stated objectives.

[7] 50 U.S.C. 2357e.
[8] 50 U.S.C. 2357f.
[9] 50 U.S.C. 2357g.

## h. Iran Nuclear Proliferation Prevention Act of 2002

**Partial text of Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002**

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## TITLE XIII—NONPROLIFERATION AND EXPORT CONTROL ASSISTANCE

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## Subtitle D—Iran Nuclear Proliferation Prevention Act of 2002

**SEC. 1341.[1] SHORT TITLE.**

This subtitle may be cited as the "Iran Nuclear Proliferation Prevention Act of 2002".

**SEC. 1342. WITHHOLDING OF VOLUNTARY CONTRIBUTIONS TO THE INTERNATIONAL ATOMIC ENERGY AGENCY FOR PROGRAMS AND PROJECTS IN IRAN.**

Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227) is amended * * *

**SEC. 1343.[2] ANNUAL REVIEW BY SECRETARY OF STATE OF PROGRAMS AND PROJECTS OF THE INTERNATIONAL ATOMIC ENERGY AGENCY; UNITED STATES OPPOSITION TO CERTAIN PROGRAMS AND PROJECTS OF THE AGENCY.**

(a) ANNUAL REVIEW.—

(1) IN GENERAL.—The Secretary shall undertake a comprehensive annual review of all programs and projects of the International Atomic Energy Agency (IAEA) in the countries described in section 307(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(a)) and shall determine if such programs and projects are consistent with United States nuclear nonproliferation and safety goals.

(2)[3] REPORT.—Not later than one year after the date of enactment of this Act, and on an annual basis thereafter for five years, the Secretary shall submit to Congress a report containing the results of the review under paragraph (1).

(b) OPPOSITION TO CERTAIN PROGRAMS AND PROJECTS OF INTERNATIONAL ATOMIC ENERGY AGENCY.—The Secretary shall direct the United States representative to the International Atomic Energy Agency to oppose programs of the Agency that are determined by the Secretary under the review conducted under subsection (a)(1)

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[1] 22 U.S.C. 2021 note.

[2] 22 U.S.C. 2027.

[3] In Delegation of Authority 304 dated February 16, 2006 (73 F.R. 25822; May 7, 2008), the Secretary of State delegated to the Under Secretary of State for Arms Control and International Security the authority to approve submission of the report to Congress required in sec. 1343(a)(2).

to be inconsistent with nuclear nonproliferation and safety goals of the United States.

**SEC. 1344.[1,4] REPORTING REQUIREMENTS.**

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and on an annual basis thereafter for five years, the Secretary, in consultation with the United States representative to the International Atomic Energy Agency, shall prepare and submit to Congress a report that contains—

(1) a description of the total amount of annual assistance to Iran from the International Atomic Energy Agency;

(2) a list of Iranian officials in leadership positions at the Agency;

(3) the expected timeframe for the completion of the nuclear power reactors at the Bushehr nuclear power plant;

(4) a summary of the nuclear materials and technology transferred to Iran from the Agency in the preceding year that could assist in the development of Iran's nuclear weapons program; and

(5) a description of all programs and projects of the International Atomic Energy Agency in each country described in section 307(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(a)) and any inconsistencies between the technical cooperation and assistance programs and projects of the Agency and United States nuclear nonproliferation and safety goals in those countries.

(b) ADDITIONAL REQUIREMENT.—The report required to be submitted under subsection (a) shall be submitted in an unclassified form, to the extent appropriate, but may include a classified annex.

**SEC. 1345. SENSE OF CONGRESS.**

It is the sense of Congress that the President should pursue internal reforms at the International Atomic Energy Agency that will ensure that all programs and projects funded under the Technical Cooperation and Assistance Fund of the Agency are compatible with United States nuclear nonproliferation policy and international nuclear nonproliferation norms.

[4] In Delegation of Authority 304 dated February 16, 2006 (73 F.R. 25822; May 7, 2008), the Secretary of State delegated to the Under Secretary of State for Arms Control and International Security the authority to approve submission of the report to Congress required in sec. 1344.

## i. Miscellaneous Nonproliferation Provisions in Foreign Relations Authorization Act, Fiscal Year 2003

**Partial text of Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002**

AN ACT To authorize appropriations for the Department of State for fiscal year 2003, to authorize appropriations under the Arms Export Control Act and the Foreign Assistance Act of 1961 for security assistance for fiscal year 2003, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Foreign Relations Authorization Act, Fiscal Year 2003".

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## TITLE XVI—MISCELLANEOUS PROVISIONS

**SEC. 1601. NUCLEAR AND MISSILE NONPROLIFERATION IN SOUTH ASIA.**

(a) UNITED STATES POLICY.—It shall be the policy of the United States, consistent with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons (21 U.S.T. 483), to encourage and work with the governments of India and Pakistan to achieve the following objectives by September 30, 2003:

(1) Continuation of a nuclear testing moratorium.

(2) Commitment not to deploy nuclear weapons.

(3) Commitment not to deploy ballistic missiles that can carry nuclear weapons and to restrain the ranges and types of missiles developed or deployed.

(4) Agreement by both governments to bring their export controls in accord with the guidelines and requirements of the Nuclear Suppliers Group.

(5) Agreement by both governments to bring their export controls in accord with the guidelines and requirements of the Zangger Committee.

(6) Agreement by both governments to bring their export controls in accord with the guidelines, requirements, and annexes of the Missile Technology Control Regime.

(7) Establishment of a modern, effective system to control the export of sensitive dual-use items, technology, technical information, and materiel that can be used in the design, development, or production of weapons of mass destruction and ballistic missiles.

(8) Conduct of bilateral meetings between Indian and Pakistani senior officials to discuss security issues and establish confidence-building measures with respect to nuclear policies and programs.

(b) FURTHER UNITED STATES POLICY.—It shall also be the policy of the United States, consistent with its obligations under the Treaty on the Nonproliferation of Nuclear Weapons (21 U.S.T. 483), to encourage, and, where appropriate, to work with, the Governments of India and Pakistan to achieve not later than September 30, 2003, the establishment by those governments of modern, effective systems to protect and secure their nuclear devices and materiel from unauthorized use, accidental employment, or theft. Any such dialogue with India or Pakistan would not be represented or considered, nor would it be intended, as granting any recognition to India or Pakistan, as appropriate, as a nuclear weapon state (as defined in the Treaty on the Non-Proliferation of Nuclear Weapons).

(c) REPORT.—Not later than March 1, 2003, the President shall submit to the appropriate congressional committees a report describing United States efforts to achieve the objectives listed in subsections (a) and (b), the progress made toward the achievement of those objectives, and the likelihood that each objective will be achieved by September 30, 2003.

**SEC. 1602.[1] REAL-TIME PUBLIC AVAILABILITY OF RAW SEISMOLOGICAL DATA.**

The head of the Air Force Technical Applications Center shall make available to the public, immediately upon receipt or as soon after receipt as is practicable, all raw seismological data provided to the United States Government by any international monitoring organization that is directly responsible for seismological monitoring.

**SEC. 1603. DETAILING UNITED STATES GOVERNMENTAL PERSONNEL TO INTERNATIONAL ARMS CONTROL AND NONPROLIFERATION ORGANIZATIONS.**

(a) IN GENERAL.—The Secretary, in consultation with the Secretaries of Defense and Energy and the heads of other relevant United States departments and agencies, as appropriate, should develop measures to improve the process by which United States Government personnel may be detailed to international arms control and nonproliferation organizations without adversely affecting the pay or career advancement of such personnel.

(b) REPORT REQUIRED.—Not later than May 1, 2003, the Secretary shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives setting forth the measures taken under subsection (a).

**SEC. 1604.[2] DIPLOMATIC PRESENCE OVERSEAS.**

(a) PURPOSE.—The purpose of this section is to—

(1) elevate the stature given United States diplomatic initiatives relating to nonproliferation and political-military issues; and

(2) develop a group of highly specialized, technical experts with country expertise capable of administering the nonproliferation and political-military affairs functions of the Department.

[1] 42 U.S.C. 7704 note.
[2] 22 U.S.C. 2655b.

(b) AUTHORITY.—To carry out the purposes of subsection (a), the Secretary is authorized to establish the position of Counselor for Nonproliferation and Political Military Affairs in United States diplomatic missions overseas, to be filled by individuals who are career Civil Service officers or Foreign Service officers committed to follow-on assignments in the Nonproliferation Bureau or the Political Military Affairs Bureau of the Department.

(c) TRAINING.—After being selected to serve as Counselor, any person so selected shall spend not less than 10 months in language training courses at the Foreign Service Institute, or in technical courses administered by the Department of Defense, the Department of Energy, or other appropriate departments and agencies of the United States, except that such requirement for training may be waived by the Secretary.

**SEC. 1605. COMPLIANCE WITH THE CHEMICAL WEAPONS CONVENTION.**

(a) FINDINGS.—Congress makes the following findings:

(1) On April 24, 1997, the Senate provided its advice and consent to ratification of the Chemical Weapons Convention subject to the condition, among others, that the President certify that no sample collected in the United States pursuant to the Convention will be transferred for analysis to any laboratory outside the territory of the United States.

(2) Congress enacted the same condition into law as section 304(f)(1) of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6724(f)(1)).

(3) Part II, paragraph 57, of the Verification Annex of the Convention requires that all samples requiring off-site analysis under the Convention shall be analyzed by at least two laboratories that have been designated as capable of conducting such testing by the OPCW.

(4) The only United States laboratory currently designated by the OPCW is the United States Army Edgewood Forensic Science Laboratory.

(5) In order to comply with the Chemical Weapons Convention, the certification submitted pursuant to condition (18) of the resolution of ratification of the Chemical Weapons Convention, and the requirements of section 304(f)(1) of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6724(f)(1)), the United States must possess, at a minimum, a second OPCW-designated laboratory.

(6) The possession of a second OPCW-designated laboratory is necessary in view of the potential for a challenge inspection to be initiated against the United States by a foreign nation.

(7) The possession of a third OPCW-designated laboratory would enable the OPCW to implement its normal sample analysis procedures, which randomly assign real and manufactured samples so that no laboratory knows the origin of a given sample.

(8) To qualify as a designated laboratory, a laboratory must be certified under ISO Guide 25 or a higher standard and complete three proficiency tests. The laboratory must have the full capability to handle substances listed on Schedule 1 of the Annex on Schedules of Chemicals of the Chemical Weapons

Convention. In order to handle such substances in the United States, a laboratory also must operate under a bailment agreement with the United States Army.

(9) Several existing United States commercial laboratories have approved quality control systems, already possess bailment agreements with the United States Army, and have the capabilities necessary to obtain OPCW designation.

(10) In order to bolster the legitimacy of United States analysis of samples taken on its national territory, it is preferable that one designated laboratory not be a United States Government facility.

(b) ESTABLISHMENT OF NON-GOVERNMENTAL DESIGNATED LABORATORY.—

(1) REPORT.—Not later than March 1, 2003, the United States National Authority, as designated under section 101 of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6711) (referred to in this section as the "National Authority"), shall submit to the appropriate congressional committees a report detailing a plan for securing OPCW designation of a nongovernmental United States laboratory by December 1, 2004.

(2) DIRECTIVE.—Not later than June 1, 2003, the National Authority shall select, through competitive procedures, a nongovernmental laboratory within the United States to pursue designation by the OPCW.

(3) DELEGATION.—The National Authority may delegate the authority and administrative responsibility for carrying out paragraph (2) to one or more of the heads of the agencies described in section 101(b)(2) of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6711(b)(2)).

(c) DEFINITIONS.—In this section:

(1) CHEMICAL WEAPONS CONVENTION OR CONVENTION.—The term "Chemical Weapons Convention" or "Convention" means the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, Opened for Signature and Signed by the United States at Paris on January 13, 1993, including the following protocols and memorandum of understanding:

(A) The Annex on Chemicals.

(B) The Annex on Implementation and Verification.

(C) The Annex on the Protection of Confidential Information.

(D) The Resolution Establishing the Preparatory Commission for the Organization for the Prohibition of Chemical Weapons.

(E) The Text on the Establishment of a Preparatory Commission.

(2) OPCW.—The term "OPCW" means the Organization for the Prohibition of Chemical Weapons established under the Convention.

## j. Iran, North Korea, and Syria Nonproliferation Act

**Public Law 106–178 [Iran Nonproliferation Act of 2000; H.R. 1883], 114 Stat. 38, approved March 14, 2000; as amended by Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002; Public Law 109–112 [Iran Nonproliferation Amendments Act of 2005; S. 1713], 119 Stat. 2366, approved November 22, 2005; and Public Law 109–353 [North Korea Nonproliferation Act of 2006; S. 3728], 120 Stat. 2015, approved October 13, 2006**

AN ACT To provide for the application of measures to foreign persons who transfer to Iran certain goods, services, or technology, and for other purposes.

**SECTION 1.[1] SHORT TITLE.**

This Act may be cited as the "Iran, North Korea, and Syria Nonproliferation Act".[2]

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[1] 50 U.S.C. 1701 note.

[2] Sec. 4(e) of the Iran Nonproliferation Amendments Act of 2005 (Public Law 109–112; 119 Stat. 2369) struck out "Iran Nonproliferation Act of 2000" and inserted in lieu thereof "Iran and Syria Nonproliferation Act". Subsequently, sec. 3(b)(1) of the North Korea Nonproliferation Act of 2006 (Public Law 109–353; 120 Stat. 2016) inserted ", North Korea," after "Iran".

Sec. 2 of the North Korea Nonproliferation Act of 2006 (Public Law 109–353; 120 Stat. 2015) states as follows:

**"SEC. 2. STATEMENT OF POLICY.**

"(a) In view of—

"(1) North Korea's manifest determination to produce missiles, nuclear weapons, and other weapons of mass destruction and to proliferate missiles, in violation of international norms and expectations; and

"(2) United Nations Security Council Resolution 1695, adopted on July 15, 2006, which requires all Member States, in accordance with their national legal authorities and consistent with international law, to exercise vigilance and prevent—

"(A) missile and missile-related items, materials, goods, and technology from being transferred to North Korea's missile or weapons of mass destruction programs; and

"(B) the procurement of missiles or missile-related items, materials, goods, and technology from North Korea, and the transfer of any financial resources in relation to North Korea's missile or weapons of mass destruction programs,

"it should be the policy of the United States to impose sanctions on persons who transfer such weapons, and goods and technology related to such weapons, to and from North Korea in the same manner as persons who transfer such items to and from Iran and Syria currently are sanctioned under United States law.".

Sec. 4 of the Act (120 Stat. 2016) states the following:

**"SEC. 4. SENSE OF CONGRESS ON INTERNATIONAL COOPERATION.**

"Congress urges all governments to comply promptly with United Nations Security Council Resolution 1695 and to impose measures on persons involved in such proliferation that are similar to those imposed by the United States Government pursuant to the Iran, North Korea, and Syria Nonproliferation Act (Public Law 106–178; 50 U.S.C. 1701 note), as amended by this Act.".

**SEC. 2.[3] REPORTS ON PROLIFERATION RELATING TO IRAN, NORTH KOREA, AND SYRIA.[4]**

(a) REPORTS.—The President shall, at the times specified in subsection (b), submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report identifying every foreign person with respect to whom there is credible information indicating that that person, on or after January 1, 1999, transferred to or acquired from[4] Iran,[5] on or after January 1, 2005, transferred to or acquired from Syria[4], or on or after January 1, 2006, transferred to or acquired from North Korea[6]—

(1) goods, services, or technology listed on—

(A) the Nuclear Suppliers Group Guidelines for the Export of Nuclear Material, Equipment and Technology (published by the International Atomic Energy Agency as Information Circular INFCIRC/254/Rev.3/Part 1, and subsequent revisions) and Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Material, and Related Technology (published by the International Atomic Energy Agency as Information Circular INFCIRC/254/Rev.3/Part 2, and subsequent revisions);

(B) the Missile Technology Control Regime Equipment and Technology Annex of June 11, 1996, and subsequent revisions;

(C) the lists of items and substances relating to biological and chemical weapons the export of which is controlled by the Australia Group;

(D) the Schedule One or Schedule Two list of toxic chemicals and precursors the export of which is controlled pursuant to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction; or

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[3] Sec. 708 of the Security Assistance Act of 2000 (Public Law 106–280; 116 Stat. 862) reads in part:

**"SEC. 708. SPACE COOPERATION WITH RUSSIAN PERSONS.**

"(a) ANNUAL CERTIFICATION.—

"(1) REQUIREMENT.—The President shall submit each year to the appropriate committees of Congress, with respect to each Russian person described in paragraph (2), a certification that the reports required to be submitted to Congress during the preceding calendar year under section 2 of the Iran Nonproliferation Act of 2000 (Public Law 106–178) do not identify that person on account of a transfer to Iran of goods, services, or technology described in section 2(a)(1)(B) of such Act.

"(2) * * *

"(3) EXEMPTION.—No activity or transfer which specifically has been the subject of a Presidential determination pursuant to section 5(a)(1), (2), or (3) of the Iran Nonproliferation Act of 2000 (Public Law 106–178) shall cause a Russian person to be considered as having been identified in the reports submitted during the preceding calendar year under section 2 of that Act for the purposes of the certification required under paragraph (1).".

[4] Sec. 4(a) of Public Law 109–112 (119 Stat. 2369) struck out "**TO IRAN**" and inserted in lieu thereof "**RELATING TO IRAN AND SYRIA**" in the heading of sec. 2; inserted "or acquired from" after "transferred to" and ", or on or after January 1, 2005, transferred to or acquired from Syria" in sec. 2(a); and inserted "or Syria, as the case may be," after "Iran" in sec. 2(a)(2). Sec. 3(a)(1) of Public Law 109–353 (120 Stat. 2015) subsequently inserted "**, NORTH KOREA,**" after "**IRAN**" in the heading of sec. 2.

[5] Sec. 3(a)(2)(A)(i) of Public Law 109–353 (120 Stat. 2015) struck out "Iran, or" and inserted in lieu thereof "Iran,".

[6] Sec. 3(a)(2)(A)(ii) of Public Law 109–353 (120 Stat. 2016) inserted ", or on or after January 1, 2006, transferred to or acquired from North Korea". The direction in sec. 3(a)(2)(A)(ii) states first that the new language should be inserted after "Syria", but then in the same clause states this language would be inserted after "Iran". In this volume the new language appears after "Syria", in accordance with the first direction.

(E) the Wassenaar Arrangement list of Dual Use Goods and Technologies and Munitions list of July 12, 1996, and subsequent revisions; or

(2) goods, services, or technology not listed on any list identified in paragraph (1) but which nevertheless would be, if they were United States goods, services, or technology, prohibited for export to Iran, North Korea,[7] or Syria, as the case may be,[4] because of their potential to make a material contribution to the development of nuclear, biological, or chemical weapons, or of ballistic or cruise missile systems.

(b) TIMING OF REPORTS.—The reports under subsection (a) shall be submitted not later than 90 days after the date of the enactment of this Act, not later than 6 months after such date of enactment, and not later than the end of each 6-month period thereafter.

(c) EXCEPTIONS.—Any foreign person who—

(1) was identified in a previous report submitted under subsection (a) on account of a particular transfer; or

(2) has engaged in a transfer on behalf of, or in concert with, the Government of the United States, is not required to be identified on account of that same transfer in any report submitted thereafter under this section, except to the degree that new information has emerged indicating that the particular transfer may have continued, or been larger, more significant, or different in nature than previously reported under this section.

(d) SUBMISSION IN CLASSIFIED FORM.—When the President considers it appropriate, reports submitted under subsection (a), or appropriate parts thereof, may be submitted in classified form.

(e)[8] CONTENT OF REPORTS.—Each report under subsection (a) shall contain, with respect to each foreign person identified in such report, a brief description of the type and quantity of the goods, services, or technology transferred by that person to Iran, the circumstances surrounding the transfer, the usefulness of the transfer to Iranian weapons programs, and the probable awareness or lack thereof of the transfer on the part of the government with primary jurisdiction over the person.

**SEC. 3. APPLICATION OF MEASURES TO CERTAIN FOREIGN PERSONS.**

(a) APPLICATION OF MEASURES.—Subject to sections 4 and 5, the President is authorized to apply with respect to each foreign person identified in a report submitted pursuant to section 2(a), for such period of time as he may determine, any or all of the measures described in subsection (b).

(b) DESCRIPTION OF MEASURES.—The measures referred to in subsection (a) are the following:

(1) EXECUTIVE ORDER NO. 12938 PROHIBITIONS.—The measures set forth in subsections (b) and (c) of section 4 of Executive Order No. 12938.

(2) ARMS EXPORT PROHIBITION.—Prohibition on United States Government sales to that foreign person of any item on the United States Munitions List as in effect on August 8, 1995,

[7] Sec. 3(a)(2)(B) of Public Law 109–353 (120 Stat. 2016) inserted ", North Korea," after "Iran".

[8] Sec. 1306(a) of the Foreign Relations Authorization Act, Fiscal Year 2003 (division B of Public Law 107–228; 116 Stat. 1438) added subsec. (e).

and termination of sales to that person of any defense articles, defense services, or design and construction services under the Arms Export Control Act.

(3) DUAL USE EXPORT PROHIBITION.—Denial of licenses and suspension of existing licenses for the transfer to that person of items the export of which is controlled under the Export Administration Act of 1979 or the Export Administration Regulations.

(c) EFFECTIVE DATE OF MEASURES.—Measures applied pursuant to subsection (a) shall be effective with respect to a foreign person no later than—

(1) 90 days after the report identifying the foreign person is submitted, if the report is submitted on or before the date required by section 2(b);

(2) 90 days after the date required by section 2(b) for submitting the report, if the report identifying the foreign person is submitted within 60 days after that date; or

(3) on the date that the report identifying the foreign person is submitted, if that report is submitted more than 60 days after the date required by section 2(b).

(d) PUBLICATION IN FEDERAL REGISTER.—The application of measures to a foreign person pursuant to subsection (a) shall be announced by notice published in the Federal Register.[9]

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[9] In Public Notice 5483 dated July 31, 2006 (71 F.R. 44345; August 4, 2006), the Department of State's Bureau of International Security and Nonproliferation published a determination to apply measures to seven foreign persons under sec. 3, effective July 28, 2006:

Korean Mining and Industrial Development Corporation (KOMID) (North Korea)
Korea Pugang Trading Corporation (North Korea)
Center for Genetic Engineering and Biotechnology (Cuba)
Balaji Amines (India)
Prachi Poly Products (India)
Rosoboronexport (Russia)
Sukhoy (Russia)

The measures apply to any successor, sub-unit, or subsidiary of any of these persons. The Bureau ended the measures against Sukhoy in Public Notice 5632 dated November 22, 2006 (71 F.R. 69220; November 30, 2006), with an effective date of November 21, 2006.

In Public Notice 5660 dated December 28, 2006 (72 F.R. 606; January 5, 2007), the Bureau published a determination to apply measures to 24 foreign persons, and any successor, sub-unit, or subsidiary of any of these persons, under sec. 3, effective December 28, 2006:

China National Electronic Import-Export Company (CEIEC) (China)
China National Aero-Technology Import and Export Company (CATIC) (China)
Zibo Chemet Equipment Company (China)
Defense Industries Organization (DIO) (Iran)
Iran Electronics Industries (IEI) (Iran)
Sanam Industrial Group (SIG) (Iran)
NAB Export Company (Iran)
Abu Hamadi (Iraq)
Kal Al-Zuhiry (Iraq)
Korea Mining Development Corporation (KOMID) (North Korea)
Target Airfreight (Malaysia)
Aerospace Logistics Services (Mexico)
Arif Durrani (Pakistan)
Rosoboronexport (Russia)
Kolomna Design Bureau of Machine-Building (KBM) (Russia)
Tula Design Bureau of Instrument Building (KBP) (Russia)
Alexey Safonov (Russia)
Al Zarga Optical and Electronics Co. (Sudan)
Giad Industrial Complex (Sudan)
Yarmouk Industrial Complex (Sudan)
Army Supply Bureau (Syria)
Industrial Establishment of Defense (IED) (Syria)
Ministry of Defense (Syria)
Scientific Studies and Research Center (SSRC) (Syria)

Continued

**SEC. 4. PROCEDURES IF MEASURES ARE NOT APPLIED.**

(a) REQUIREMENT TO NOTIFY CONGRESS.—Should the President not exercise the authority of section 3(a) to apply any or all of the measures described in section 3(b) with respect to a foreign person identified in a report submitted pursuant to section 2(a), he shall so notify the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate no later than the effective date under section 3(c) for measures with respect to that person.

(b) WRITTEN JUSTIFICATION.—Any notification submitted by the President under subsection (a) shall include a written justification describing in detail the facts and circumstances relating specifically to the foreign person identified in a report submitted pursuant to section 2(a) that support the President's decision not to exercise the authority of section 3(a) with respect to that person.

(c) SUBMISSION IN CLASSIFIED FORM.—When the President considers it appropriate, the notification of the President under subsection (a), and the written justification under subsection (b), or appropriate parts thereof, may be submitted in classified form.

**SEC. 5. DETERMINATION EXEMPTING FOREIGN PERSON FROM SECTIONS 3 AND 4.**

(a) IN GENERAL.—Sections 3 and 4 shall not apply to a foreign person 15 days after the President reports to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate that the President has determined, on the basis of information provided by that person, or otherwise obtained by the President, that—

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In Public Notice 5781 dated April 17, 2007 (72 F.R. 20158; April 23, 2007), the Bureau published a determination to apply measures to 14 foreign persons, and any successor, sub-unit, or subsidiary of any of these persons, under sec. 3, effective April 17, 2007:

China National Precision Machinery Import/Export Corporation (CPMIEC) (China)
Shanghai Non-Ferrous Metals Pudong Development Trade Co. Ltd. (China)
Zibo Chemet Equipment Company (China)
Defense Industries Organization (DIO) (Iran)
Hizballah
Sokkia Singapore PTE Ltd. (Singapore)
Army Supply Bureau (Syria)
Syrian Air Force (Syria)
Syrian Navy (Syria)
Industrial Establishment of Defense (Syria)
Challenger Corporation (Malaysia)
Target Airfreight (Malaysia)
Aerospace Logistics Services (Mexico)
Arif Durrani (Pakistan)

In Public Notice 6414 dated October 16, 2008 (73 F.R. 63226; October 23, 2008), the Bureau published a determination to apply measures to 13 foreign persons, and any successor, sub-unit, or subsidiary of any of these persons, under sec. 3, effective October 23, 2008:

China Xinshidai Company (China)
China Shipbuilding and Offshore International Corporation, LTD (China)
Huazhong CNC (China)
Islamic Revolutionary Guard Corps (IRGC) (Iran)
Korea Mining Development Corporation (North Korea)
Korea Taesong Trading Company (North Korea)
Yolin/Yullin Tech, Inc., Ltd. (South Korea)
Rosoboronexport (ROE) (Russia)
Sudan Master Technology (Sudan)
Sudan Technical Center Company (STC) (Sudan)
Army Supply Bureau (Syria)
R and M International FZCO (United Arab Emirates)
Venezuelan Military Industries Company (CAVIM) (Venezuela)

(1) the person did not, on or after January 1, 1999, knowingly transfer to or acquire from Iran, North Korea,[10] or Syria, as the case may be,[11] the goods, services, or technology the apparent transfer of which caused that person to be identified in a report submitted pursuant to section 2(a);

(2) the goods, services, or technology the transfer of which caused that person to be identified in a report submitted pursuant to section 2(a) did not materially contribute to the efforts of Iran, North Korea,[10] or Syria, as the case may be,[12] to develop nuclear, biological, or chemical weapons, or ballistic or cruise missile systems, or weapons listed on the Wassenaar Arrangement Munitions List of July 12, 1996, or any subsequent revision of that list[13];

(3) the person is subject to the primary jurisdiction of a government that is an adherent to one or more relevant nonproliferation regimes, the person was identified in a report submitted pursuant to section 2(a) with respect to a transfer of goods, services, or technology described in section 2(a)(1), and such transfer was made consistent with the guidelines and parameters of all such relevant regimes of which such government is an adherent; or

(4) the government with primary jurisdiction over the person has imposed meaningful penalties on that person on account of the transfer of the goods, services, or technology which caused that person to be identified in a report submitted pursuant to section 2(a).

(b) OPPORTUNITY TO PROVIDE INFORMATION.—Congress urges the President—

(1) in every appropriate case, to contact in a timely fashion each foreign person identified in each report submitted pursuant to section 2(a), or the government with primary jurisdiction over such person, in order to afford such person, or governments, the opportunity to provide explanatory, exculpatory, or other additional information with respect to the transfer that caused such person to be identified in a report submitted pursuant to section 2(a); and

(2) to exercise the authority in subsection (a) in all cases where information obtained from a foreign person identified in a report submitted pursuant to section 2(a), or from the government with primary jurisdiction over such person, establishes that the exercise of such authority is warranted.

(c) SUBMISSION IN CLASSIFIED FORM.—When the President considers it appropriate, the determination and report of the President

[10] Sec. 3(b)(2) of Public Law 109–353 (120 Stat. 2016) inserted ", North Korea," after "Iran" in paras. (1) and (2) of sec. 5(a).

[11] Sec. 4(b)(1) of the Iran Nonproliferation Amendments Act of 2005 (Public Law 109–112; 119 Stat. 2369) struck out "transfer to Iran" and inserted in lieu thereof "transfer to or acquire from Iran or Syria, as the case may be".

[12] Sec. 4(b)(2) of the Iran Nonproliferation Amendments Act of 2005 (Public Law 109–112; 119 Stat. 2369) struck out "Iran's efforts" and inserted in lieu thereof "the efforts of Iran or Syria, as the case may be,".

[13] Sec. 1306(b) of the Foreign Relations Authorization Act, Fiscal Year 2003 (division B of Public Law 107–228; 116 Stat. 1438) struck out "systems" in this subsection and inserted in lieu thereof "systems, or weapons listed on the Wassenaar Arrangement Munitions List of July 12, 1996, or any subsequent revision of that list".

under subsection (a), or appropriate parts thereof, may be submitted in classified form.

**SEC. 6. RESTRICTION ON EXTRAORDINARY PAYMENTS IN CONNECTION WITH THE INTERNATIONAL SPACE STATION.**

(a) RESTRICTION ON EXTRAORDINARY PAYMENTS IN CONNECTION WITH THE INTERNATIONAL SPACE STATION.—Notwithstanding any other provision of law, no agency of the United States Government may make extraordinary payments in connection with the International Space Station to the Russian Aviation and Space Agency, any organization or entity under the jurisdiction or control of the Russian Aviation and Space Agency, or any other organization, entity, or element of the Government of the Russian Federation, unless, during the fiscal year in which the extraordinary payments in connection with the International Space Station are to be made, the President has made the determination described in subsection (b), and reported such determination to the Committee on International Relations and the Committee on Science of the House of Representatives and the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation of the Senate.

(b) DETERMINATION REGARDING RUSSIAN COOPERATION IN PREVENTING PROLIFERATION RELATING TO IRAN,[14] NORTH KOREA, AND

[14] Sec. 401 of the Iran Freedom Support Act (P.L. 109–293; 120 Stat. 1349) states the following regarding preventing Iranian proliferation:

**"SEC. 401. SENSE OF CONGRESS.**

"(a) SENSE OF CONGRESS.—It should be the policy of the United States not to bring into force an agreement for cooperation with the government of any country that is assisting the nuclear program of Iran or transferring advanced conventional weapons or missiles to Iran unless the President has determined that—

"(1) Iran has suspended all enrichment-related and reprocessing-related activity (including uranium conversion and research and development, manufacturing, testing, and assembly relating to enrichment and reprocessing), has committed to verifiably refrain permanently from such activity in the future (except potentially the conversion of uranium exclusively for export to foreign nuclear fuel production facilities pursuant to internationally agreed arrangements and subject to strict international safeguards), and is abiding by that commitment; or

"(2) the government of that country—

"(A) has, either on its own initiative or pursuant to a binding decision of the United Nations Security Council, suspended all nuclear assistance to Iran and all transfers of advanced conventional weapons and missiles to Iran, pending a decision by Iran to implement measures that would permit the President to make the determination described in paragraph (1); and

"(B) is committed to maintaining that suspension until Iran has implemented measures that would permit the President to make such determination.

"(b) DEFINITIONS.—In this section:

"(1) AGREEMENT FOR COOPERATION.—The term 'agreement for cooperation' has the meaning given that term in section 11 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(b)).

"(2) ASSISTING THE NUCLEAR PROGRAM OF IRAN.—The term 'assisting the nuclear program of Iran' means the intentional transfer to Iran by a government, or by a person subject to the jurisdiction of a government, with the knowledge and acquiescence of that government, of goods, services, or technology listed on the Nuclear Suppliers Group Guidelines for the Export of Nuclear Material, Equipment and Technology (published by the International Atomic Energy Agency as Information Circular INFCIRC/254/Rev. 3/Part 1, and subsequent revisions) or Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Material and Related Technology (published by the International Atomic Energy Agency as Information Circular INFCIRC/254/Rev. 3/Part 2 and subsequent revisions).

"(3) TRANSFERRING ADVANCED CONVENTIONAL WEAPONS OR MISSILES TO IRAN.—The term 'transferring advanced conventional weapons or missiles to Iran' means the intentional transfer to Iran by a government, or by a person subject to the jurisdiction of a government, with the knowledge and acquiescence of that government, of—

"(A) advanced conventional weapons; or

"(B) goods, services, or technology listed on the Missile Technology Control Regime Equipment and Technology Annex of June 11, 1996, and subsequent revisions.".

SYRIA.[15]—The determination referred to in subsection (a) is a determination by the President that—

(1) it is the policy of the Government of the Russian Federation to oppose the proliferation to or from Iran, North Korea, and Syria[16] of weapons of mass destruction and missile systems capable of delivering such weapons;

(2) the Government of the Russian Federation (including the law enforcement, export promotion, export control, and intelligence agencies of such government) has demonstrated and continues to demonstrate a sustained commitment to seek out and prevent the transfer to or from Iran, North Korea, and Syria[16] of goods, services, and technology that could make a material contribution to the development of nuclear, biological, or chemical weapons, or of ballistic or cruise missile systems; and

(3) neither the Russian Aviation and Space Agency, nor any organization or entity under the jurisdiction or control of the Russian Aviation and Space Agency, has, during the 1-year period prior to the date of the determination pursuant to this subsection, made transfers to or from Iran, North Korea, or Syria[16] reportable under section 2(a) of this Act (other than transfers with respect to which a determination pursuant to section 5 has been or will be made).

(c) PRIOR NOTIFICATION.—Not less than 5 days before making a determination under subsection (b), the President shall notify the Committee on International Relations and the Committee on Science of the House of Representatives and the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation of the Senate of his intention to make such determination.

(d) WRITTEN JUSTIFICATION.—A determination of the President under subsection (b) shall include a written justification describing in detail the facts and circumstances supporting the President's conclusion.

(e) SUBMISSION IN CLASSIFIED FORM.—When the President considers it appropriate, a determination of the President under subsection (b), a prior notification under subsection (c), and a written justification under subsection (d), or appropriate parts thereof, may be submitted in classified form.

(f) EXCEPTION FOR CREW SAFETY.—

(1) EXCEPTION.—The National Aeronautics and Space Administration may make extraordinary payments that would otherwise be prohibited under this section to the Russian Aviation and Space Agency or any organization or entity under the jurisdiction or control of the Russian Aviation and Space Agency if the President has notified the Congress in writing that

[15] Sec. 4(c)(1) of the Iran Nonproliferation Amendments Act of 2005 (Public Law 109–112; 119 Stat. 2369) struck out "TO IRAN" and inserted in lieu thereof "RELATING TO IRAN AND SYRIA". Subsequently sec. 3(b)(3)(A) of Public Law 109–353 (120 Stat. 2016) inserted ", NORTH KOREA," after "IRAN" in the heading.

[16] Sec. 4(c)(2) of the Iran Nonproliferation Amendments Act of 2005 (Public Law 109–112; 119 Stat. 2369) struck out "to Iran" in each place it appeared in sec. 6(b)(1) and (2) and inserted in lieu thereof "to or from Iran and Syria". Sec. 4(c)(3) of that Act struck out "to Iran" in sec. 6(b)(3) and inserted in lieu thereof "to or from Iran or Syria". Subsequently sec. 3(b)(3)(B) inserted ", North Korea," after "Iran" each place it appears in sec. 6(b).

such payments are necessary to prevent the imminent loss of life by or grievous injury to individuals aboard the International Space Station.

(2) REPORT.—Not later than 30 days after notifying Congress that the National Aeronautics and Space Administration will make extraordinary payments under paragraph (1), the President shall submit to Congress a report describing—

(A) the extent to which the provisions of subsection (b) had been met as of the date of notification; and

(B) the measures that the National Aeronautics and Space Administration is taking to ensure that—

(i) the conditions posing a threat of imminent loss of life by or grievous injury to individuals aboard the International Space Station necessitating the extraordinary payments are not repeated; and

(ii) it is no longer necessary to make extraordinary payments in order to prevent imminent loss of life by or grievous injury to individuals aboard the International Space Station.

(g) SERVICE MODULE EXCEPTION.—(1) The National Aeronautics and Space Administration may make extraordinary payments that would otherwise be prohibited under this section to the Russian Aviation and Space Agency, any organization or entity under the jurisdiction or control of the Russian Aviation and Space Agency, or any subcontractor thereof for the construction, testing, preparation, delivery, launch, or maintenance of the Service Module, and for the purchase (at a total cost not to exceed $14,000,000) of the pressure dome for the Interim Control Module and the Androgynous Peripheral Docking Adapter and related hardware for the United States propulsion module, if—

(A) the President has notified Congress at least 5 days before making such payments;

(B) no report has been made under section 2 with respect to an activity of the entity to receive such payment, and the President has no credible information of any activity that would require such a report; and

(C) the United States will receive goods or services of value to the United States commensurate with the value of the extraordinary payments made.

(2) For purposes of this subsection, the term "maintenance" means activities which cannot be performed by the National Aeronautics and Space Administration and which must be performed in order for the Service Module to provide environmental control, life support, and orbital maintenance functions which cannot be performed by an alternative means at the time of payment.

(3) This subsection shall cease to be effective 60 days after a United States propulsion module is in place at the International Space Station.

(h) EXCEPTION.—Notwithstanding subsections (a) and (b), no agency of the United States Government may make extraordinary payments in connection with the International Space Station, or any other payments in connection with the International Space

Station,[17] to any foreign person subject to measures applied pursuant to—

(1) section 3 of this Act; or

(2) section 4 of Executive Order No. 12938 (November 14, 1994), as amended by Executive Order No. 13094 (July 28, 1998).

Such payments shall also not be made to any other entity if the agency of the United States Government anticipates that such payments will be passed on to such a foreign person.

(i)[18] REPORT ON CERTAIN PAYMENTS RELATED TO INTERNATIONAL SPACE STATION.—

(1) IN GENERAL.—The President shall, together with each report submitted under section 2(a), submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report that identifies each Russian entity or person to whom the United States Government has, since the date of the enactment of the Iran Nonproliferation Amendments Act of 2005, made a payment in cash or in kind for work to be performed or services to be rendered under the Agreement Concerning Cooperation on the Civil International Space Station, with annex, signed at Washington January 29, 1998, and entered into force March 27, 2001, or any protocol, agreement, memorandum of understanding, or contract related thereto.

(2) CONTENT.—Each report submitted under paragraph (1) shall include—

(A) the specific purpose of each payment made to each entity or person identified in the report; and

(B) with respect to each such payment, the assessment of the President that the payment was not prejudicial to the achievement of the objectives of the United States Government to prevent the proliferation of ballistic or cruise missile systems in Iran and other countries that have repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)).

**SEC. 7. DEFINITIONS.**

For purposes of this Act, the following terms have the following meanings:

(1) EXTRAORDINARY PAYMENTS IN CONNECTION WITH THE INTERNATIONAL SPACE STATION.—The term "extraordinary payments in connection with the International Space Station" means payments in cash or in kind made or to be made by the United States Government—

[17] Sec. 3(b) of the Iran Nonproliferation Amendments Act of 2005 (Public Law 109–112; 119 Stat. 2368) inserted ", or any other payments in connection with the International Space Station,".

[18] Sec. 3(c) of the Iran Nonproliferation Amendments Act of 2005 (Public Law 109–112; 119 Stat. 2368) added subsec. (i).

(A) for work on the International Space Station which the Russian Government pledged at any time to provide at its expense; or

(B) for work on the International Space Station, or for the purchase of goods or services relating to human space flight, that are not required to be made under the terms of a contract or other agreement that was in effect on January 1, 1999, as those terms were in effect on such date, except that such term does not mean payments in cash or in kind made or to be made by the United States Government prior to July 1, 2016,[19] for work to be performed or services to be rendered prior to that date necessary to meet United States obligations under the Agreement Concerning Cooperation on the Civil International Space Station, with annex, signed at Washington January 29, 1998, and entered into force March 27, 2001, or any protocol, agreement, memorandum of understanding, or contract related thereto.[20]

(2) FOREIGN PERSON; PERSON.—The terms "foreign person" and "person" mean—

(A) a natural person that is an alien;

(B) a corporation, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group, that is organized under the laws of a foreign country or has its principal place of business in a foreign country;

(C) any foreign government, including any foreign governmental entity; and[21]

(D) any successor, subunit, or subsidiary of any entity described in subparagraph (A), (B), or (C), including any entity in which any entity described in any such subparagraph owns a controlling interest.[21]

(3) EXECUTIVE ORDER NO. 12938.—The term "Executive Order No. 12938" means Executive Order No. 12938 as in effect on January 1, 1999.

(4) ADHERENT TO RELEVANT NONPROLIFERATION REGIME.—A government is an "adherent" to a "relevant nonproliferation regime" if that government—

(A) is a member of the Nuclear Suppliers Group with respect to a transfer of goods, services, or technology described in section 2(a)(1)(A);

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[19] Sec. 125 of the Continuing Appropriations Resolution, 2009 (division A of Public Law 110–329; 122 Stat. 3577) struck out "January 1, 2012", and inserted in lieu thereof "July 1, 2016".

[20] Sec. 3(a) of the Iran Nonproliferation Amendments Act of 2005 (Public Law 109–112; 119 Stat. 2368) struck out the period at the end of this subsection and inserted a comma in lieu thereof, and after the comma added the following: "except that such term does not mean payments in cash or in kind made or to be made by the United States Government prior to January 1, 2012, for work to be performed or services to be rendered prior to that date necessary to meet United States obligations under the Agreement Concerning Cooperation on the Civil International Space Station, with annex, signed at Washington January 29, 1998, and entered into force March 27, 2001, or any protocol, agreement, memorandum of understanding, or contract related thereto.".

[21] Sec. 4(d)(1) of the Iran Nonproliferation Amendments Act of 2005 (Public Law 109–112; 119 Stat. 2369) restated sec. 7(2)(C). This subparagraph read previously, "(C) any foreign governmental entity operating as a business enterprise; and". Sec. 4(d)(2) of that Act struck "subparagraph (B) or (C)" from sec. 7(2)(D) and inserted in lieu thereof "subparagraph (A), (B), or (C), including any entity in which any entity described in any such subparagraph owns a controlling interest".

(B) is a member of the Missile Technology Control Regime with respect to a transfer of goods, services, or technology described in section 2(a)(1)(B), or is a party to a binding international agreement with the United States that was in effect on January 1, 1999, to control the transfer of such goods, services, or technology in accordance with the criteria and standards set forth in the Missile Technology Control Regime;

(C) is a member of the Australia Group with respect to a transfer of goods, services, or technology described in section 2(a)(1)(C);

(D) is a party to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction with respect to a transfer of goods, services, or technology described in section 2(a)(1)(D); or

(E) is a member of the Wassenaar Arrangement with respect to a transfer of goods, services, or technology described in section 2(a)(1)(E).

(5) ORGANIZATION OR ENTITY UNDER THE JURISDICTION OR CONTROL OF THE RUSSIAN AVIATION AND SPACE AGENCY.—(A) The term "organization or entity under the jurisdiction or control of the Russian Aviation and Space Agency" means an organization or entity that—

(i) was made part of the Russian Space Agency upon its establishment on February 25, 1992;

(ii) was transferred to the Russian Space Agency by decree of the Russian Government on July 25, 1994, or May 12, 1998;

(iii) was or is transferred to the Russian Aviation and Space Agency or Russian Space Agency by decree of the Russian Government at any other time before, on, or after the date of the enactment of this Act; or

(iv) is a joint stock company in which the Russian Aviation and Space Agency or Russian Space Agency has at any time held controlling interest.

(B) Any organization or entity described in subparagraph (A) shall be deemed to be under the jurisdiction or control of the Russian Aviation and Space Agency regardless of whether—

(i) such organization or entity, after being part of or transferred to the Russian Aviation and Space Agency or Russian Space Agency, is removed from or transferred out of the Russian Aviation and Space Agency or Russian Space Agency; or

(ii) the Russian Aviation and Space Agency or Russian Space Agency, after holding a controlling interest in such organization or entity, divests its controlling interest.

## k. National Security and Corporate Fairness Under the Biological Weapons Convention Act

**Partial text of Public Law 106–113 [H.R. 3194], 113 Stat. 1501 at 1536, approved November 29, 1999**

* * * * * * *

SEC. 1000. (a) The provisions of the following bills are hereby enacted into law:

(1)–(6) * * *

(7) H.R. 3427 of the 106th Congress, as introduced on November 17, 1999;

(8)–(9) * * *

* * * * * * *

A BILL To authorize appropriations for the Department of State for fiscal years 2000 and 2001; to provide for enhanced security at United States diplomatic facilities; to provide for certain arms control, nonproliferation, and other national security measures; to provide for reform of the United Nations; and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001".

* * * * * * *

## DIVISION B—ARMS CONTROL, NONPROLIFERATION, AND SECURITY ASSISTANCE PROVISIONS

**SEC. 1001. SHORT TITLE.**

This division may be cited as the "Arms Control, Nonproliferation, and Security Assistance Act of 1999".

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## TITLE XI—ARMS CONTROL AND NONPROLIFERATION

**SEC. 1101. SHORT TITLE.**

This title may be cited as the "Arms Control and Nonproliferation Act of 1999".

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### Subtitle A—Arms Control

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## CHAPTER 2—MATTERS RELATING TO THE CONTROL OF BIOLOGICAL WEAPONS [1]

**SEC. 1121. SHORT TITLE.**

This chapter may be cited as the "National Security and Corporate Fairness under the Biological Weapons Convention Act".

**SEC. 1122. DEFINITIONS.**

In this chapter:

(1) BIOLOGICAL WEAPONS CONVENTION.—The term "Biological Weapons Convention" means the 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction.

(2) COMPLIANCE PROTOCOL.—The term "compliance protocol" means that segment of a bilateral or multilateral agreement that enables investigation of questions of compliance entailing written data or visits to facilities to monitor compliance.

(3) INDUSTRY.—The term "industry" means any corporate or private sector entity engaged in the research, development, production, import, and export of peaceful pharmaceuticals and bio-technological and related products.

**SEC. 1123. FINDINGS.**

Congress makes the following findings:

(1) The threat of biological weapons and their proliferation is one of the greatest national security threats facing the United States.

(2) The threat of biological weapons and materials represents a serious and increasing danger to people around the world.

(3) Biological weapons are relatively inexpensive to produce, can be made with readily available expertise and equipment, do not require much space to make and can therefore be readily concealed, do not require unusual raw materials or materials not readily available for legitimate purposes, do not require the maintenance of stockpiles, or can be delivered with low-technology mechanisms, and can effect widespread casualties even in small quantities.

(4) Unlike other weapons of mass destruction, biological materials capable of use as weapons can occur naturally in the environment and are also used for medicinal or other beneficial purposes.

(5) Biological weapons are morally reprehensible, prompting the United States Government to halt its offensive biological weapons program in 1969, subsequently destroy its entire biological weapons arsenal, and maintain henceforth only a robust defensive capacity.

(6) The Senate gave its advice and consent to ratification of the Biological Weapons Convention in 1974.

(7) The Director of the Arms Control and Disarmament Agency explained, at the time of the Senate's consideration of the Biological Weapons Convention, that the treaty contained

[1] 22 U.S.C. 5601 note.

no verification provisions because verification would be "difficult".

(8) A compliance protocol has now been proposed to strengthen the 1972 Biological Weapons Convention.

(9) The resources needed to produce, stockpile, and store biological weapons are the same as those used in peaceful industry facilities to discover, develop, and produce medicines.

(10) The raw materials of biological agents are difficult to use as an indicator of an offensive military program because the same materials occur in nature or can be used to produce a wide variety of products.

(11) Some biological products are genetically manipulated to develop new commercial products, optimizing production and ensuring the integrity of the product, making it difficult to distinguish between legitimate commercial activities and offensive military activities.

(12) Only a small culture of a biological agent and some growth medium are needed to produce a large amount of biological agents with the potential for offensive purposes.

(13) The United States pharmaceutical and biotechnology industries are a national asset and resource that contribute to the health and well-being of the American public as well as citizens around the world.

(14) One bacterium strain can represent a large proportion of a company's investment in a pharmaceutical product and thus its potential loss during an arms control monitoring activity could conceivably be worth billions of dollars.

(15) Biological products contain proprietary genetic information.

(16) The proposed compliance regime for the Biological Weapons Convention entails new data reporting and investigation requirements for industry.

(17) A compliance regime which contributes to the control of biological weapons and materials must have a reasonable chance of success in reducing the risk of production, stockpiling, or use of biological weapons while protecting the reputations, intellectual property, and confidential business information of legitimate companies.

**SEC. 1124. TRIAL INVESTIGATIONS AND TRIAL VISITS.**

(a) NATIONAL SECURITY TRIAL INVESTIGATIONS AND TRIAL VISITS.—The President shall conduct a series of national security trial investigations and trial visits, both during and following negotiations to develop a compliance protocol to the Biological Weapons Convention, with the objective of ensuring that the compliance procedures of the protocol are effective and adequately protect the national security of the United States. These trial investigations and trial visits shall be conducted at such sites as United States Government facilities, installations, and national laboratories.

(b) UNITED STATES INDUSTRY TRIAL INVESTIGATIONS AND TRIAL VISITS.—The President shall take all appropriate steps to conduct or sponsor a series of United States industry trial investigations and trial visits, both during and following negotiations to develop a compliance protocol to the Biological Weapons Convention, with

the objective of ensuring that the compliance procedures of the protocol are effective and adequately protect the national security and the concerns of affected United States industries and research institutions. These trial investigations and trial visits shall be conducted at such sites as academic institutions, vaccine production facilities, and pharmaceutical and biotechnology firms in the United States.

(c) PARTICIPATION BY DEFENSE DEPARTMENT AND OTHER APPROPRIATE PERSONNEL.—The Secretary of Defense and, as appropriate, the Director of the Federal Bureau of Investigation shall make available specialized personnel to participate—

(1) in each trial investigation or trial visit conducted pursuant to subsection (a); and

(2) in each trial investigation or trial visit conducted pursuant to subsection (b), except for any investigation or visit in which the host facility requests that such personnel not participate,

for the purpose of assessing the information security implications of such investigation or visit. The Secretary of Defense, in coordination with the Director of the Federal Bureau of Investigation, shall add to the report required by subsection (d)(2) a classified annex containing an assessment of the risk to proprietary and classified information posed by any investigation or visit procedures in the compliance protocol.

(d) STUDY.—

(1) IN GENERAL.—The President shall conduct a study on the need for investigations and visits under the compliance protocol to the Biological Weapons Convention, including—

(A) an assessment of risks to national security and United States industry and research institutions of such on-site activities; and

(B) an assessment of the monitoring results that can be expected from such investigations and visits.

(2) REPORT.—Not later than the date on which a compliance protocol to the Biological Weapons Convention is submitted to the Senate for its advice and consent to ratification, the President shall submit to the Committee on Foreign Relations of the Senate a report, in both unclassified and classified form, setting forth—

(A) the findings of the study conducted pursuant to paragraph (1); and

(B) the results of trial investigations and trial visits conducted pursuant to subsections (a) and (b).

## Subtitle B—Nuclear Nonproliferation, Safety, and Related Matters

### SEC. 1131. CONGRESSIONAL NOTIFICATION OF NONPROLIFERATION ACTIVITIES.

Section 602(c) of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3282(c)) is amended to read as follows: * * *

**SEC. 1132.[2] EFFECTIVE USE OF RESOURCES FOR NONPROLIFERATION PROGRAMS.**

(a) PROHIBITION.—Except as provided in subsection (b), no assistance may be provided by the United States Government to any person who is involved in the research, development, design, testing, or evaluation of chemical or biological weapons for offensive purposes.

(b) EXCEPTION.—The prohibition contained in subsection (a) shall not apply to any activity conducted pursuant to title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

**SEC. 1133. DISPOSITION OF WEAPONS-GRADE MATERIAL.**

(a) REPORT ON REDUCTION OF THE STOCKPILE.—Not later than 120 days after signing an agreement between the United States and Russia for the disposition of excess weapons plutonium, the Secretary of Energy, with the concurrence of the Secretary of Defense, shall submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate and to the Committee on International Relations and the Committee on Armed Services of the House of Representatives a report—

(1) detailing plans for United States implementation of such agreement;

(2) identifying, in classified form, the number of United States warhead "pits" of each type deemed "excess" for the purpose of dismantlement or disposition; and

(3) describing any implications this may have for the Stockpile Stewardship and Management Program.

(b) SUBMISSION OF THE FABRICATION FACILITY AGREEMENT PURSUANT TO LAW.—Whenever the President submits to Congress the agreement to establish a mixed oxide fuel fabrication or production facility in Russia pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153), it is the sense of the Congress that the Secretary of State should be prepared to certify to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House Representatives that—

(1) arrangements for the establishment of that facility will further United States nuclear nonproliferation objectives and will outweigh the proliferation risks inherent in the use of mixed oxide fuel elements;

(2) a guaranty has been given by Russia that no fuel elements produced, fabricated, reprocessed, or assembled at such facility, and no sensitive nuclear technology related to such facility, will be exported or supplied by Russia to any country in the event that the United States objects to such export or supply; and

(3) a guaranty has been given by Russia that the facility and all nuclear materials and equipment therein, and any fuel elements or special nuclear material produced, fabricated, reprocessed, or assembled at that facility, including fuel elements exported or supplied by Russia to a third party, will be subject to international monitoring and transparency sufficient to ensure that special nuclear material is not diverted.

(c) DEFINITIONS.—

[2] 50 U.S.C. 1526.

(1) PRODUCED.—The terms "produce" and "produced" have the same meaning that such terms are given under section 11 u. of the Atomic Energy Act of 1954.

(2) PRODUCTION FACILITY.—The term "production facility" has the same meaning that such term is given under section 11 v. of the Atomic Energy Act of 1954.

(3) SPECIAL NUCLEAR MATERIAL.—The term "special nuclear material" has the meaning that such term is given under section 11 aa. of the Atomic Energy Act of 1954.

**SEC. 1134.[3] PROVISION OF CERTAIN INFORMATION TO CONGRESS.**

(a) REQUIREMENT TO PROVIDE INFORMATION.—The head of each department and agency described in section 602(c) of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3282(c)) shall promptly provide information to the chairman and ranking minority member of the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives in meeting the requirements of subsection (c) or (d) of section 602 of such Act.

(b) ISSUANCE OF DIRECTIVES.—Not later than February 1, 2000, the Secretary of State, the Secretary of Defense, the Secretary of Commerce, the Secretary of Energy, the Director of Central Intelligence, and the Chairman of the Nuclear Regulatory Commission shall issue directives, which shall provide access to information, including information contained in special access programs, to implement their responsibilities under subsections (c) and (d) of section 602 of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3282(c) and (d)). Copies of such directives shall be forwarded promptly to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives upon the issuance of the directives.

**SEC. 1135. AMENDED NUCLEAR EXPORT REPORTING REQUIREMENT.**

Section 1523 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2180; 42 U.S.C. 2155 note) is amended—* * *

**SEC. 1136. ADHERENCE TO THE MISSILE TECHNOLOGY CONTROL REGIME.**

(a) CLARIFICATION OF REQUIREMENT FOR CONTROL.—Section 74 of the Arms Export Control Act (22 U.S.C. 2797c) is amended—* * *

(b) CLARIFICATION OF APPLICABILITY.—Section 73(b) of the Arms Export Control Act (22 U.S.C. 2797b(b)) is amended—* * *

(c) ENFORCEMENT ACTIONS.—Section 73(c) of the Arms Export Control Act (22 U.S.C. 2797b(c)) is amended * * *

(d) POLICY REPORT.—Section 73A of the Arms Export Control Act (22 U.S.C. 2797b–1) is amended—* * *

(e) MTCR DEFINED.—The term "MTCR" means the Missile Technology Control Regime, as defined in section 74(a)(2) of the Arms Export Control Act (22 U.S.C. 2797c(a)(2)).

**SEC. 1137. AUTHORITY RELATING TO MTCR ADHERENTS.**

Chapter 7 of the Arms Export Control Act (22 U.S.C. 2797 et seq.) is amended by inserting after section 73A the following new section: * * *

[3] 22 U.S.C. 3282 note.

**SEC. 1138.[4] TRANSFER OF FUNDING FOR SCIENCE AND TECHNOLOGY CENTERS IN THE FORMER SOVIET UNION.**

(a) AUTHORIZATION.—For fiscal year 2001 and subsequent fiscal years, funds made available under "Nonproliferation, Antiterrorism, Demining, and Related Programs" accounts in annual foreign operations appropriations Acts are authorized to be available for science and technology centers in the independent states of the former Soviet Union assisted under section 503(a)(5) of the FREEDOM Support Act (22 U.S.C. 5853(a)(5)) or section 1412(b)(5) of the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102–484; 22 U.S.C. 5901 et seq.), including the use of those and other funds by any Federal agency having expertise and programs related to the activities carried out by those centers, including the Departments of Agriculture, Commerce, and Health and Human Services and the Environmental Protection Agency.

(b) AVAILABILITY OF FUNDS.—Amounts made available under any provision of law for the activities described in subsection (a) shall be available until expended and may be used notwithstanding any other provision of law.

**SEC. 1139.[4] RESEARCH AND EXCHANGE ACTIVITIES BY SCIENCE AND TECHNOLOGY CENTERS.**

(a) IN GENERAL.—Support for science and technology centers in the independent states of the former Soviet Union, as authorized by section 503(a)(5) of the FREEDOM Support Act (22 U.S.C. 5853(a)(5)) and section 1412(b) of the Former Soviet Union Demilitarization Act of 1992 (title XIV of Public Law 102–484, 22 U.S.C. 5901 et seq.), is authorized for activities described in subsection (b) to support the redirection of former Soviet weapons scientists, especially those with expertise in weapons of mass destruction (nuclear, radiological, chemical, biological), missile and other delivery systems, and other advanced technologies with military applications.

(b) ACTIVITIES SUPPORTED.—Activities supported under subsection (a) include—

(1) any research activity involving the participation of former Soviet weapons scientists and civilian scientists and engineers, if the participation of the weapons scientists predominates; and

(2) any program of international exchanges that would provide former Soviet weapons scientists exposure to, and the opportunity to develop relations with, research and industry partners.

* * * * * * *

[4] 22 U.S.C. 5853 note.

## l. Proliferation Prevention Enhancement Act of 1999

**Partial text of Public Law 106–113 [H.R. 3194], 113 Stat. 1501 at 1536, approved November 29, 1999**

* * * * * * *

SEC. 1000. (a) The provisions of the following bills are hereby enacted into law:

(1)–(6) * * *

(7) H.R. 3427 of the 106th Congress, as introduced on November 17, 1999;

(8)–(9) * * *

* * * * * * *

A BILL To authorize appropriations for the Department of State for fiscal years 2000 and 2001; to provide for enhanced security at United States diplomatic facilities; to provide for certain arms control, nonproliferation, and other national security measures; to provide for reform of the United Nations; and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001".

* * * * * * *

## DIVISION B—ARMS CONTROL, NONPROLIFERATION, AND SECURITY ASSISTANCE PROVISIONS

**SEC. 1001. SHORT TITLE.**

This division may be cited as the "Arms Control, Nonproliferation, and Security Assistance Act of 1999".

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## TITLE XII—SECURITY ASSISTANCE

**SEC. 1201.[1] SHORT TITLE.**

This title may be cited as the "Security Assistance Act of 1999".

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[1] 22 U.S.C. 2151 note.

## Subtitle E—Automated Export System Relating to Export Information

**SEC. 1251.[2] SHORT TITLE.**

This subtitle may be cited as the Proliferation Prevention Enhancement Act of 1999.

**SEC. 1252. MANDATORY USE OF THE AUTOMATED EXPORT SYSTEM FOR FILING CERTAIN SHIPPERS' EXPORT DECLARATIONS.**

(a) AUTHORITY.—Section 301 of title 13, United States Code, is amended by adding at the end the following new subsection: * * *

(b)[3] IMPLEMENTING REGULATIONS.—

(1) IN GENERAL.—The Secretary of Commerce, with the concurrence of the Secretary of State, shall publish regulations in the Federal Register to require that, upon the effective date of those regulations, exporters (or their agents) who are required to file Shippers' Export Declarations under chapter 9 of title 13, United States Code, file such Declarations through the Automated Export System with respect to exports of items on the United States Munitions List or the Commerce Control List.

(2) ELEMENTS OF THE REGULATIONS.—The regulations referred to in paragraph (1) shall include at a minimum—

(A) provision by the Department of Commerce for the establishment of on-line assistance services to be available for those individuals who must use the Automated Export System;

(B) provision by the Department of Commerce for ensuring that an individual who is required to use the Automated Export System is able to print out from the System a validated record of the individual's submission, including the date of the submission and a serial number or other unique identifier, where appropriate, for the export transaction; and

(C) a requirement that the Department of Commerce print out and maintain on file a paper copy or other acceptable back-up record of the individual's submission at a location selected by the Secretary of Commerce.

(c)[3] EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 270 days after the Secretary of Commerce, the Secretary of the Treasury, and the Director of the National Institute of Standards and Technology jointly provide a certification to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives that a secure Automated Export System available through the Internet that is capable of handling the expected volume of information required to be filed under subsection (b), plus the anticipated volume from voluntary use of the Automated Export System, has been successfully implemented and tested and is fully functional with respect to reporting all items on the United States Munitions List, including their quantities and destinations.

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[2] 13 U.S.C. 1 note.
[3] 13 U.S.C. 301 note.

**SEC. 1253. VOLUNTARY USE OF THE AUTOMATED EXPORT SYSTEM.**

It is the sense of Congress that exporters (or their agents) who are required to file Shippers' Export Declarations under chapter 9 of title 13, United States Code, but who are not required under section 1252(b) to file such Declarations using the Automated Export System, should do so.

**SEC. 1254. REPORT TO APPROPRIATE COMMITTEES OF CONGRESS.**

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, the Secretary of Energy, and the Director of Central Intelligence, shall submit a report to the appropriate committees of Congress setting forth—

(1) the advisability and feasibility of mandating electronic filing through the Automated Export System for all Shippers' Export Declarations;

(2) the manner in which data gathered through the Automated Export System can most effectively be used, consistent with the need to ensure the confidentiality of business information, by other automated licensing systems administered by Federal agencies, including—

(A) the Defense Trade Application System of the Department of State;

(B) the Export Control Automated Support System of the Department of Commerce;

(C) the Foreign Disclosure and Technology Information System of the Department of Defense;

(D) the Proliferation Information Network System of the Department of Energy;

(E) the Enforcement Communication System of the Department of the Treasury; and

(F) the Export Control System of the Central Intelligence Agency; and

(3) a proposed timetable for any expansion of information required to be filed through the Automated Export System.

(b) DEFINITION.—In this section, the term "appropriate committees of Congress" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

**SEC. 1255. ACCELERATION OF DEPARTMENT OF STATE LICENSING PROCEDURES.**

Notwithstanding any other provision of law, the Secretary of State may use funds appropriated or otherwise made available to the Department of State to employ—

(1) up to 40 percent of the individuals who are performing services within the Office of Defense Trade Controls of the Department of State in positions classified at GS–14 and GS–15 on the General Schedule under section 5332 of title 5, United States Code; and

(2) other individuals within the Office at a rate of basic pay that may exceed the maximum rate payable for positions classified at GS–15 on the General Schedule under section 5332 of that title.

**SEC. 1256.[4] DEFINITIONS.**

In this subtitle:

(1) AUTOMATED EXPORT SYSTEM.—The term "Automated Export System" means the automated and electronic system for filing export information established under chapter 9 of title 13, United States Code, on June 19, 1995 (60 Federal Register 32040).

(2) COMMERCE CONTROL LIST.—The term "Commerce Control List" has the meaning given the term in section 774.1 of title 15, Code of Federal Regulations.

(3) SHIPPERS' EXPORT DECLARATION.—The term "Shippers' Export Declaration" means the export information filed under chapter 9 of title 13, United States Code, as described in part 30 of title 15, Code of Federal Regulations.

(4) UNITED STATES MUNITIONS LIST.—The term "United States Munitions List" means the list of items controlled under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

* * * * * * *

[4] 13 U.S.C. 301 note.

## m. National Missile Defense Act of 1999

**Public Law 106–38 [H.R. 4], 113 Stat. 205, approved July 22, 1999**

AN ACT To declare it to be the policy of the United States to deploy a national missile defense.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1.[1] SHORT TITLE.**

This Act may be cited as the "National Missile Defense Act of 1999".

**SEC. 2.[2] NATIONAL MISSILE DEFENSE POLICY.**

It is the policy of the United States to deploy as soon as it it technologically possible an effective National Missile Defense system capable of defending the territory of the United States against limited ballistic missile attack (whether accidential, unauthorized, or deliberate) with funding subject to the annual authorization of appropriations and the annual appropriation of funds for National Missile Defense.

**SEC. 3.[3] POLICY ON REDUCTION OF RUSSIAN NUCLEAR FORCES.**

It is the policy of the United States to seek continued negotiated reductions in Russian nuclear forces.

[1] 10 U.S.C. 101 note.
[2] 10 U.S.C. 2431 note.
[3] 22 U.S.C. 5901 note.

## n. Chemical Weapons Convention Implementation Act of 1998

**Partial text of Public Law 105–277 [Division I of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681–856, approved October 21, 1998; as amended by Public Law 106–280 [Security Assistance Act of 2000; H.R. 4919], 114 Stat. 845, approved October 6, 2000; and Public Law 107–107 [National Defense Authorization Act for Fiscal Year 2002; S. 1438], 115 Stat. 1012, approved December 28, 2001**

AN ACT Making omnibus consolidated and emergency appropriations for the fiscal year ending September 30, 1999, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

* * * * * * *

## DIVISION I—CHEMICAL WEAPONS CONVENTION

**SECTION 1.[1] SHORT TITLE.**

This Division may be cited as the "Chemical Weapons Convention Implementation Act of 1998".

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:


Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.

TITLE I—GENERAL PROVISIONS

Sec. 101. Designation of United States National Authority.
Sec. 102. No abridgement of constitutional rights.
Sec. 103. Civil liability of the United States.

TITLE II—PENALTIES FOR UNLAWFUL ACTIVITIES SUBJECT TO THE JURISDICTION OF THE UNITED STATES

Subtitle A—Criminal and Civil Penalties

Sec. 201. Criminal and civil provisions.

Subtitle B—Revocations of Export Privileges

Sec. 211. Revocations of export privileges.

TITLE III—INSPECTIONS

Sec. 301. Definitions in the title.
Sec. 302. Facility agreements.
Sec. 303. Authority to conduct inspections.
Sec. 304. Procedures for inspections.
Sec. 305. Warrants.


[1] 22 U.S.C. 6701 note.

Sec. 306. Prohibited acts relating to inspections.
Sec. 307. National security exception.
Sec. 308. Protection of constitutional rights of contractors.
Sec. 309. Annual report on inspections.
Sec. 310. United States assistance in inspections at private facilities.

TITLE IV—REPORTS

Sec. 401. Reports required by the United States National Authority.
Sec. 402. Prohibition relating to low concentrations of schedule 2 and 3 chemicals.
Sec. 403. Prohibition relating to unscheduled discrete organic chemicals and coincidental byproducts in waste streams.
Sec. 404. Confidentiality of information.
Sec. 405. Recordkeeping violations.

TITLE V—ENFORCEMENT

Sec. 501. Penalties.
Sec. 502. Specific enforcement.
Sec. 503. Expedited judicial review.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Repeal.
Sec. 602. Prohibition.
Sec. 603. Bankruptcy actions.

**SEC. 3.[2] DEFINITIONS.**

In this Act:

(1) CHEMICAL WEAPON.—The term "chemical weapon" means the following, together or separately:

(A) A toxic chemical and its precursors, except where intended for a purpose not prohibited under this Act as long as the type and quantity is consistent with such a purpose.

(B) A munition or device, specifically designed to cause death or other harm through toxic properties of those toxic chemicals specified in subparagraph (A), which would be released as a result of the employment of such munition or device.

(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B).

(2) CHEMICAL WEAPONS CONVENTION; CONVENTION.—The terms "Chemical Weapons Convention" and "Convention" mean the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993.

(3) KEY COMPONENT OF A BINARY OR MULTICOMPONENT CHEMICAL SYSTEM.—The term "key component of a binary or multicomponent chemical system" means the precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent system.

(4) NATIONAL OF THE UNITED STATES.—The term "national of the United States" has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(5) ORGANIZATION.—The term "Organization" means the Organization for the Prohibition of Chemical Weapons.

[2] 22 U.S.C. 6701.

(6) PERSON.—The term "person", except as otherwise provided, means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality or political subdivision of any such government or nation, or other entity located in the United States.

(7) PRECURSOR.—

(A) IN GENERAL.—The term "precursor" means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. The term includes any key component of a binary or multicomponent chemical system.

(B) LIST OF PRECURSORS.—Precursors which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

(8) PURPOSES NOT PROHIBITED BY THIS ACT.—The term "purposes not prohibited by this Act" means the following:

(A) PEACEFUL PURPOSES.—Any peaceful purpose related to an industrial, agricultural, research, medical, or pharmaceutical activity or other activity.

(B) PROTECTIVE PURPOSES.—Any purpose directly related to protection against toxic chemicals and to protection against chemical weapons.

(C) UNRELATED MILITARY PURPOSES.—Any military purpose of the United States that is not connected with the use of a chemical weapon and that is not dependent on the use of the toxic or poisonous properties of the chemical weapon to cause death or other harm.

(D) LAW ENFORCEMENT PURPOSES.—Any law enforcement purpose, including any domestic riot control purpose and including imposition of capital punishment.

(9) TECHNICAL SECRETARIAT.—The term "Technical Secretariat" means the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons established by the Chemical Weapons Convention.

(10) SCHEDULE 1 CHEMICAL AGENT.—The term "Schedule 1 chemical agent" means any of the following, together or separately:

(A) O-Alkyl ($\leq C_{10}$, incl. cycloalkyl) alkyl (Me, Et, n-Pr or i-Pr)-phosphonofluoridates (e.g. Sarin: O-Isopropyl methylphosphonofluoridate Soman: O-Pinacolyl methylphosphonofluoridate).

(B) O-Alkyl ($\leq C_{10}$, incl. cycloalkyl) N,N-dialkyl (Me, Et, n-Pr or i-Pr)-phosphoramidocyanidates (e.g. Tabun: O-Ethyl N,N-dimethyl phosphoramidocyanidate).

(C) O-Alkyl (H or $\leq C_{10}$, incl. cycloalkyl) S-2-dialkyl (Me, Et, n-Pr or i-Pr)-aminoethyl alkyl (Me, Et, n-Pr or i-Pr) phosphonothiolates and corresponding alkylated or protonated salts

(e.g. VX: O-Ethyl S-2-diisopropylaminoethyl methyl phosphonothiolate).

(D) Sulfur mustards:
2-Chloroethylchloromethylsulfide
Mustard gas: (Bis(2-chloroethyl)sulfide
Bis(2-chloroethylthio)methane
Sesquimustard: 1,2-Bis(2-chloroethylthio)ethane
1,3-Bis(2-chloroethylthio)-n-propane
1,4-Bis(2-chloroethylthio)-n-butane
1,5-Bis(2-chloroethylthio)-n-pentane
Bis(2-chloroethylthiomethyl)ether
O-Mustard: Bis(2-chloroethylthioethyl)ether.

(E) Lewisites:
Lewisite 1: 2-Chlorovinyldichloroarsine
Lewisite 2: Bis(2-chlorovinyl)chloroarsine
Lewisite 3: Tris (2-clorovinyl)arsine.

(F) Nitrogen mustards:
HN1: Bis(2-chloroethyl)ethylamine
HN2: Bis(2-chloroethyl)methylamine
HN3: Tris(2-chloroethyl)amine.

(G) Saxitoxin.

(H) Ricin.

(I) Alkyl (Me, Et, n-Pr or i-Pr) phosphonyldifluorides
e.g. DF: Methylphosphonyldifluoride.

(J) O-Alkyl (H or $\leq C_{10}$, incl. cycloalkyl)O-2-dialkyl
(Me, Et, n-Pr or i-Pr)-aminoethyl alkyl
(Me, Et, n-Pr or i-Pr) phosphonites and corresponding alkylated or protonated salts
e.g. QL: O-Ethyl O-2-diisopropylaminoethyl methylphosphonite.

(K) Chlorosarin: O-Isopropyl methylphosphonochloridate.

(L) Chlorosoman: O-Pinacolyl methylphosphonochloridate.

(11) SCHEDULE 2 CHEMICAL AGENT.—The term 'Schedule 2 chemical agent' means the following, together or separately:

(A) Amiton: O,O-Diethyl S-[2-(diethylamino)ethyl]
phosphorothiolate and corresponding alkylated or protonated salts.

(B) PFIB: 1,1,3,3,3-Pentafluoro-2-(trifluoromethyl)-1-propene.

(C) BZ: 3-Quinuclidinyl benzilate

(D) Chemicals, except for those listed in Schedule 1, containing a phosphorus atom to which is bonded one methyl, ethyl or propyl (normal or iso) group but not further carbon atoms,
e.g. Methylphosphonyl dichloride Dimethyl methylphosphonate
Exemption: Fonofos: O-Ethyl S-phenyl ethylphosphonothiolothionate.

(E) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) phosphoramidic dihalides.

(F) Dialkyl (Me, Et, n-Pr or i-Pr) N,N-dialkyl (Me, Et, n-Pr or i-Pr)-phosphoramidates.

(G) arsenic trichloride.

(H) 2,2-Diphenyl-2-hydroxyacetic acid.

(I) Quinuclidine-3-ol.

(J) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethyl-2-chlorides and corresponding protonated salts.

(K) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-ols and corresponding protonated salts

Exemptions: N,N-Dimethylaminoethanol and corresponding protonated salts N,N-Diethylaminoethanol and corresponding protonated salts.

(L) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-thiols and corresponding protonated salts.

(M) Thiodiglycol: Bis(2-hydroxyethyl)sulfide.

(N) Pinacolyl alcohol: 3,3-Dimethylbutane-2-ol.

(12) SCHEDULE 3 CHEMICAL AGENT.—The term 'Schedule 3 chemical agent' means any of the following, together or separately:

(A) Phosgene: carbonyl dichloride.

(B) Cyanogen chloride.

(C) Hydrogen cyanide.

(D) Chloropicrin: trichloronitromethane.

(E) Phosphorous oxychloride.

(F) Phosphorous trichloride.

(G) Phosphorous pentachloride.

(H) Trimethyl phosphite.

(I) Triethyl phosphite.

(J) Dimethyl phosphite.

(K) Diethyl phosphite.

(L) Sulfur monochloride.

(M) Sulfur dichloride.

(N) Thionyl chloride.

(O) Ethyldiethanolamine.

(P) Methyldiethanolamine.

(Q) Triethanolamine.

(13) TOXIC CHEMICAL.—

(A) IN GENERAL.—The term "toxic chemical" means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. The term includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.

(B) LIST OF TOXIC CHEMICALS.—Toxic chemicals which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

(14) UNITED STATES.—The term "United States" means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States and includes all places under the jurisdiction or control of the United States, including—

(A) any of the places within the provisions of paragraph (41) of section 40102 of title 49, United States Code;

(B) any civil aircraft of the United States or public aircraft, as such terms are defined in paragraphs (17) and (37), respectively, of section 40102 of title 49, United States Code; and

(C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C., App. sec. 1903(b)).

(15) UNSCHEDULED DISCRETE ORGANIC CHEMICAL.—The term "unscheduled discrete organic chemical" means any chemical

not listed on any schedule contained in the Annex on Chemicals of the Convention that belongs to the class of chemical compounds consisting of all compounds of carbon, except for its oxides, sulfides, and metal carbonates.

## TITLE I—GENERAL PROVISIONS

**SEC. 101.[3] DESIGNATION OF UNITED STATES NATIONAL AUTHORITY.**

(a) DESIGNATION.—Pursuant to paragraph 4 of Article VII of the Chemical Weapons Convention, the President shall designate the Department of State to be the United States National Authority.

(b) PURPOSES.—The United States National Authority shall—

(1) serve as the national focal point for effective liaison with the Organization for the Prohibition of Chemical Weapons and other States Parties to the Convention; and

(2) implement the provisions of this Act in coordination with an interagency group designated by the President consisting of the Secretary of Commerce, Secretary of Defense, Secretary of Energy, the Attorney General, and the heads of agencies considered necessary or advisable by the President.

(c) DIRECTOR.—The Secretary of State shall serve as the Director of the United States National Authority.

(d) POWERS.—The Director may utilize the administrative authorities otherwise available to the Secretary of State in carrying out the responsibilities of the Director set forth in this Act.

(e) IMPLEMENTATION.—The President is authorized to implement and carry out the provisions of this Act and the Convention[4] and shall designate through Executive order which agencies of the United States shall issue, amend, or revise the regulations in order to implement this Act and the provisions of the Convention. The Director of the United States National Authority shall report to the Congress on the regulations that have been issued, implemented, or revised pursuant to this section.

**SEC. 102.[5] NO ABRIDGEMENT OF CONSTITUTIONAL RIGHTS.**

No person may be required, as a condition for entering into a contract with the United States or as a condition for receiving any benefit from the United States, to waive any right under the Constitution for any purpose related to this Act or the Convention.

**SEC. 103.[6] CIVIL LIABILITY OF THE UNITED STATES.**

(a) CLAIMS FOR TAKING OF PROPERTY.—

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[3] 22 U.S.C. 6711.

[4] The Senate tasked the President with further duties pursuant to its resolution ratifying the Chemical Weapons Convention. Sec. 2(10)(C) of the Senate resolution "To advise and consent to the ratification of the Chemical Weapons Convention, subject to certain conditions" (S. Res. 75; April 24, 1997) required the Secretary of State to provide an annual report certifying the compliance of other states parties to the Chemical Weapons Convention and the measures undertaken to bring any states parties not so certified into compliance. In sec. 2(a)(3) of Executive Order 13313 of July 31, 2003 (68 F.R. 46073; August 5, 2003), the President assigned these reporting duties to the Secretary of State.

In sec. 2(a) of Executive Order 13346 of July 8, 2004 (69 F.R. 41905; July 13, 2004), the President further assigned to the Secretary of State the certification requirements of sec. 2(7)(C)(i) of S. Res. 75 (105th Congress), concerning the effectiveness and viability of the Australia Group. In sec. 2(b) of Executive Order 13346, the President assigned to the Secretary of Commerce the certification requirements of sec. 2(9) of S. Res. 75 (105th Congress), concerning the interests of certain firms in the United States.

[5] 22 U.S.C. 6712.

[6] 22 U.S.C. 6713.

(1) JURISDICTION OF COURTS OF THE UNITED STATES.—

(A) UNITED STATES COURT OF FEDERAL CLAIMS.—The United States Court of Federal Claims shall, subject to subparagraph (B), have jurisdiction of any civil action or claim against the United States for any taking of property without just compensation that occurs by reason of the action of any officer or employee of the Organization for the Prohibition of Chemical Weapons, including any member of an inspection team of the Technical Secretariat, or by reason of the action of any officer or employee of the United States pursuant to this Act or the Convention. For purposes of this subsection, action taken pursuant to or under the color of this Act or the Convention shall be deemed to be action taken by the United States for a public purpose.

(B) DISTRICT COURTS.—The district courts of the United States shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any civil action or claim described in subparagraph (A) that does not exceed $10,000.

(2) NOTIFICATION.—Any person intending to bring a civil action pursuant to paragraph (1) shall notify the United States National Authority of that intent at least one year before filing the claim in the United States Court of Federal Claims. Action on any claim filed during that one-year period shall be stayed. The one-year period following the notification shall not be counted for purposes of any law limiting the period within which the civil action may be commenced.

(3) INITIAL STEPS BY UNITED STATES GOVERNMENT TO SEEK REMEDIES.—During the period between a notification pursuant to paragraph (2) and the filing of a claim covered by the notification in the United States Court of Federal Claims, the United States National Authority shall pursue all diplomatic and other remedies that the United States National Authority considers necessary and appropriate to seek redress for the claim including, but not limited to, the remedies provided for in the Convention and under this Act.

(4) BURDEN OF PROOF.—In any civil action under paragraph (1), the plaintiff shall have the burden to establish a prima facie case that, due to acts or omissions of any official of the Organization or any member of an inspection team of the Technical Secretariat taken under the color of the Convention, proprietary information of the plaintiff has been divulged or taken without authorization. If the United States Court of Federal Claims finds that the plaintiff has demonstrated such a prima facie case, the burden shall shift to the United States to disprove the plaintiff's claim. In deciding whether the plaintiff has carried its burden, the United States Court of Federal Claims shall consider, among other things—

(A) the value of proprietary information;

(B) the availability of the proprietary information;

(C) the extent to which the proprietary information is based on patents, trade secrets, or other protected intellectual property;

(D) the significance of proprietary information; and

(E) the emergence of technology elsewhere a reasonable time after the inspection.

(b) TORT LIABILITY.—The district courts of the United States shall have exclusive jurisdiction of civil actions for money damages for any tort under the Constitution or any Federal or State law arising from the acts or omissions of any officer or employee of the United States or the Organization, including any member of an inspection team of the Technical Secretariat, taken pursuant to or under color of the Convention or this Act.

(c) WAIVER OF SOVEREIGN IMMUNITY OF THE UNITED STATES.—In any action under subsection (a) or (b), the United States may not raise sovereign immunity as a defense.

(d) AUTHORITY FOR CAUSE OF ACTION.—

(1) UNITED STATES ACTIONS IN UNITED STATES DISTRICT COURT.—Notwithstanding any other law, the Attorney General of the United States is authorized to bring an action in the United States District Court for the District of Columbia against any foreign nation for money damages resulting from that nation's refusal to provide indemnification to the United States for any liability imposed on the United States by virtue of the actions of an inspector of the Technical Secretariat who is a national of that foreign nation acting at the direction or the behest of that foreign nation.

(2) UNITED STATES ACTIONS IN COURTS OUTSIDE THE UNITED STATES.—The Attorney General is authorized to seek any and all available redress in any international tribunal for indemnification to the United States for any liability imposed on the United States by virtue of the actions of an inspector of the Technical Secretariat, and to seek such redress in the courts of the foreign nation from which the inspector is a national.

(3) ACTIONS BROUGHT BY INDIVIDUALS AND BUSINESSES.—Notwithstanding any other law, any national of the United States, or any business entity organized and operating under the laws of the United States, may bring a civil action in a United States District Court for money damages against any foreign national or any business entity organized and operating under the laws of a foreign nation for an unauthorized or unlawful acquisition, receipt, transmission, or use of property by or on behalf of such foreign national or business entity as a result of any tort under the Constitution or any Federal or State law arising from acts or omissions by any officer or employee of the United States or any member of an inspection team of the Technical Secretariat taken pursuant to or under the color of the Convention or this Act.

(e) RECOUPMENT.—

(1) POLICY.—It is the policy of the United States to recoup all funds withdrawn from the Treasury of the United States in payment for any tort under Federal or State law or taking under the Constitution arising from the acts or omissions of any foreign person, officer, or employee of the Organization, including any member of an inspection team of the Technical Secretariat, taken under color of the Chemical Weapons Convention or this Act.

(2) SANCTIONS ON FOREIGN COMPANIES.—

(A) IMPOSITION OF SANCTIONS.—The sanctions provided in subparagraph (B) shall be imposed for a period of not less than ten years upon—

(i) any foreign person, officer, or employee of the Organization, including any member of an inspection team of the Technical Secretariat, for whose actions or omissions the United States has been held liable for a tort or taking pursuant to this Act; and

(ii) any foreign person or business entity organized and operating under the laws of a foreign nation which knowingly assisted, encouraged or induced, in any way, a foreign person described in clause (i) to publish, divulge, disclose, or make known in any manner or to any extent not authorized by the Convention any United States confidential business information.

(B) SANCTIONS.—

(i) ARMS EXPORT TRANSACTIONS.—The United States Government shall not sell to a person described in subparagraph (A) any item on the United States Munitions List and shall terminate sales of any defense articles, defense services, or design and construction services to a person described in subparagraph (A) under the Arms Export Control Act.

(ii) SANCTIONS UNDER EXPORT ADMINISTRATION ACT OF 1979.—The authorities under section 6 of the Export Administration Act of 1979 shall be used to prohibit the export of any goods or technology on the control list established pursuant to section 5(c)(1) of that Act to a person described in subparagraph (A).

(iii) INTERNATIONAL FINANCIAL ASSISTANCE.—The United States shall oppose any loan or financial or technical assistance by international financial institutions in accordance with section 701 of the International Financial Institutions Act to a person described in subparagraph (A).

(iv) EXPORT-IMPORT BANK TRANSACTIONS.—The United States shall not give approval to guarantee, insure, or extend credit, or to participate in the extension of credit to a person described in subparagraph (A) through the Export-Import Bank of the United States.

(v) PRIVATE BANK TRANSACTIONS.—Regulations shall be issued to prohibit any United States bank from making any loan or providing any credit to a person described in subparagraph (A).

(vi) BLOCKING OF ASSETS.—The President shall take all steps necessary to block any transactions in any property subject to the jurisdiction of the United States in which a person described in subparagraph (A) has any interest whatsoever, for the purpose of recouping funds in accordance with the policy in paragraph (1).

(vii) DENIAL OF LANDING RIGHTS.—Landing rights in the United States shall be denied to any private aircraft or air carrier owned by a person described in subparagraph (A) except as necessary to provide for emergencies in which the safety of the aircraft or its crew or passengers is threatened.

(3) SANCTIONS ON FOREIGN GOVERNMENTS.—

(A) IMPOSITION OF SANCTIONS.—Whenever the President determines that persuasive information is available indicating that a foreign country has knowingly assisted, encouraged or induced, in any way, a person described in paragraph (2)(A) to publish, divulge, disclose, or make known in any manner or to any extent not authorized by the Convention any United States confidential business information, the President shall, within 30 days after the receipt of such information by the executive branch of Government, notify the Congress in writing of such determination and, subject to the requirements of paragraphs (4) and (5), impose the sanctions provided under subparagraph (B) for a period of not less than five years.

(B) SANCTIONS.—

(i) ARMS EXPORT TRANSACTIONS.—The United States Government shall not sell a country described in subparagraph (A) any item on the United States Munitions List, shall terminate sales of any defense articles, defense services, or design and construction services to that country under the Arms Export Control Act, and shall terminate all foreign military financing for that country under the Arms Export Control Act.

(ii) DENIAL OF CERTAIN LICENSES.—Licenses shall not be issued for the export to the sanctioned country of any item on the United States Munitions List or commercial satellites.

(iii) DENIAL OF ASSISTANCE.—No appropriated funds may be used for the purpose of providing economic assistance, providing military assistance or grant military education and training, or extending military credits or making guarantees to a country described in subparagraph (A).

(iv) SANCTIONS UNDER EXPORT ADMINISTRATION ACT OF 1979.—The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit the export of any goods or technology on the control list established pursuant to section 5(c)(1) of that Act to a country described in subparagraph (A).

(v) INTERNATIONAL FINANCIAL ASSISTANCE.—The United States shall oppose any loan or financial or technical assistance by international financial institutions in accordance with section 701 of the International Financial Institutions Act to a country described in subparagraph (A).

(vi) TERMINATION OF ASSISTANCE UNDER FOREIGN ASSISTANCE ACT OF 1961.—The United States shall terminate all assistance to a country described in subparagraph (A) under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance.

(vii) PRIVATE BANK TRANSACTIONS.—The United States shall not give approval to guarantee, insure, or extend credit, or participate in the extension of credit through the Export-Import Bank of the United States to a country described in subparagraph (A).

(viii) PRIVATE BANK TRANSACTIONS.—Regulations shall be issued to prohibit any United States bank from making any loan or providing any credit to a country described in subparagraph (A).

(ix) DENIAL OF LANDING RIGHTS.—Landing rights in the United States shall be denied to any air carrier owned by a country described in subparagraph (A), except as necessary to provide for emergencies in which the safety of the aircraft or its crew or passengers is threatened.

(4) SUSPENSION OF SANCTIONS UPON RECOUPMENT BY PAYMENT.—Sanctions imposed under paragraph (2) or (3) may be suspended if the sanctioned person, business entity, or country, within the period specified in that paragraph, provides full and complete compensation to the United States Government, in convertible foreign exchange or other mutually acceptable compensation equivalent to the full value thereof, in satisfaction of a tort or taking for which the United States has been held liable pursuant to this Act.

(5) WAIVER OF SANCTIONS ON FOREIGN COUNTRIES.—The President may waive some or all of the sanctions provided under paragraph (3) in a particular case if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that such waiver is necessary to protect the national security interests of the United States. The certification shall set forth the reasons supporting the determination and shall take effect on the date on which the certification is received by the Congress.

(6) NOTIFICATION TO CONGRESS.—Not later than five days after sanctions become effective against a foreign person pursuant to this Act, the President shall transmit written notification of the imposition of sanctions against that foreign person to the chairmen and ranking members of the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(f) SANCTIONS FOR UNAUTHORIZED DISCLOSURE OF UNITED STATES CONFIDENTIAL BUSINESS INFORMATION.—The Secretary of State shall deny a visa to, and the Attorney General shall exclude from the United States any alien who, after the date of enactment of this Act—

(1) is, or previously served as, an officer or employee of the Organization and who has willfully published, divulged, disclosed, or made known in any manner or to any extent not authorized by the Convention any United States confidential business information coming to him in the course of his employment or official duties, or by reason of any examination or investigation of any return, report, or record made to or filed with the Organization, or any officer or employee thereof, such practice or disclosure having resulted in financial losses or damages to a United States person and for which actions or omissions the United States has been found liable of a tort or taking pursuant to this Act;

(2) traffics in United States confidential business information, a proven claim to which is owned by a United States national;

(3) is a corporate officer, principal, shareholder with a controlling interest of an entity which has been involved in the unauthorized disclosure of United States confidential business information, a proven claim to which is owned by a United States national; or

(4) is a spouse, minor child, or agent of a person excludable under paragraph (1), (2), or (3).

(g) UNITED STATES CONFIDENTIAL BUSINESS INFORMATION DEFINED.—In this section, the term "United States confidential business information" means any trade secrets or commercial or financial information that is privileged and confidential—

(1) including—

(A) data described in section 304(e)(2) of this Act,

(B) any chemical structure,

(C) any plant design process, technology, or operating method,

(D) any operating requirement, input, or result that identifies any type or quantity of chemicals used, processed, or produced, or

(E) any commercial sale, shipment, or use of a chemical, or

(2) as described in section 552(b)(4) of title 5, United States Code,

and that is obtained—

(i) from a United States person; or

(ii) through the United States Government or the conduct of an inspection on United States territory under the Convention.

## TITLE II—PENALTIES FOR UNLAWFUL ACTIVITIES SUBJECT TO THE JURISDICTION OF THE UNITED STATES

### Subtitle A—Criminal and Civil Penalties

**SEC. 201. CRIMINAL AND CIVIL PROVISIONS.**

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 11A the following new chapter:

## "CHAPTER 11B—CHEMICAL WEAPONS

"Sec.
"229. Prohibited activities.
"229A. Penalties.
"229B. Criminal forfeitures; destruction of weapons.
"229C. Individual self-defense devices.
"229D. Injunctions.
"229E. Requests for military assistance to enforce prohibition in certain emergencies.
"229F. Definitions.

### "§ 229. Prohibited activities

"(a) UNLAWFUL CONDUCT.—Except as provided in subsection (b), it shall be unlawful for any person knowingly—

"(1) to develop, produce, otherwise acquire, transfer directly or indirectly, receive, stockpile, retain, own, possess, or use, or threaten to use, any chemical weapon; or

"(2) to assist or induce, in any way, any person to violate paragraph (1), or to attempt or conspire to violate paragraph (1).

"(b) EXEMPTED AGENCIES AND PERSONS.—

"(1) IN GENERAL.—Subsection (a) does not apply to the retention, ownership, possession, transfer, or receipt of a chemical weapon by a department, agency, or other entity of the United States, or by a person described in paragraph (2), pending destruction of the weapon.

"(2) EXEMPTED PERSONS.—A person referred to in paragraph (1) is—

"(A) any person, including a member of the Armed Forces of the United States, who is authorized by law or by an appropriate officer of the United States to retain, own, possess, transfer, or receive the chemical weapon; or

"(B) in an emergency situation, any otherwise nonculpable person if the person is attempting to destroy or seize the weapon.

"(c) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if the prohibited conduct—

"(1) takes place in the United States;

"(2) takes place outside of the United States and is committed by a national of the United States;

"(3) is committed against a national of the United States while the national is outside the United States; or

"(4) is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States.

### "§ 229A. Penalties

"(a) CRIMINAL PENALTIES.—

"(1) IN GENERAL.—Any person who violates section 229 of this title shall be fined under this title, or imprisoned for any term of years, or both.

"(2) DEATH PENALTY.—Any person who violates section 229 of this title and by whose action the death of another person is the result shall be punished by death or imprisoned for life.

"(b) CIVIL PENALTIES.—

"(1) IN GENERAL.—The Attorney General may bring a civil action in the appropriate United States district court against any person who violates section 229 of this title and, upon proof of such violation by a preponderance of the evidence, such person shall be subject to pay a civil penalty in an amount not to exceed $100,000 for each such violation.

"(2) RELATION TO OTHER PROCEEDINGS.—The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

"(c) REIMBURSEMENT OF COSTS.—The court shall order any person convicted of an offense under subsection (a) to reimburse the United States for any expenses incurred by the United States incident to the seizure, storage, handling, transportation, and destruction or other disposition of any property that was seized in connection with an investigation of the commission of the offense by that person. A person ordered to reimburse the United States for expenses under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered under this subsection to reimburse the United States for the same expenses.

**"§ 229B. Criminal forfeitures; destruction of weapons**

"(a) PROPERTY SUBJECT TO CRIMINAL FORFEITURE.—Any person convicted under section 229A(a) shall forfeit to the United States irrespective of any provision of State law—

"(1) any property, real or personal, owned, possessed, or used by a person involved in the offense;

"(2) any property constituting, or derived from, and proceeds the person obtained, directly or indirectly, as the result of such violation; and

"(3) any of the property used in any manner or part, to commit, or to facilitate the commission of, such violation.

The court, in imposing sentence on such person, shall order, in addition to any other sentence imposed pursuant to section 229A(a), that the person forfeit to the United States all property described in this subsection. In lieu of a fine otherwise authorized by section 229A(a), a defendant who derived profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.

"(b) PROCEDURES.—

"(1) GENERAL.—Property subject to forfeiture under this section, any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed by subsections (b) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), except that any reference under those subsections to—

"(A) 'this subchapter or subchapter II' shall be deemed to be a reference to section 229A(a); and

"(B) 'subsection (a)' shall be deemed to be a reference to subsection (a) of this section.

"(2) TEMPORARY RESTRAINING ORDERS.—

"(A) IN GENERAL.—For the purposes of forfeiture proceedings under this section, a temporary restraining order may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if, in addition to the circumstances described in section 413(e)(2) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853(e)(2)), the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and exigent circumstances exist that place the life or health of any person in danger.

"(B) WARRANT OF SEIZURE.—If the court enters a temporary restraining order under this paragraph, it shall also issue a warrant authorizing the seizure of such property.

"(C) APPLICABLE PROCEDURES.—The procedures and time limits applicable to temporary restraining orders under section 413(e) (2) and (3) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853(e) (2) and (3)) shall apply to temporary restraining orders under this paragraph.

"(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense against a forfeiture under subsection (b) that the property—

"(1) is for a purpose not prohibited under the Chemical Weapons Convention; and

"(2) is of a type and quantity that under the circumstances is consistent with that purpose.

"(d) DESTRUCTION OR OTHER DISPOSITION.—The Attorney General shall provide for the destruction or other appropriate disposition of any chemical weapon seized and forfeited pursuant to this section.

"(e) ASSISTANCE.—The Attorney General may request the head of any agency of the United States to assist in the handling, storage, transportation, or destruction of property seized under this section.

"(f) OWNER LIABILITY.—The owner or possessor of any property seized under this section shall be liable to the United States for any expenses incurred incident to the seizure, including any expenses relating to the handling, storage, transportation, and destruction or other disposition of the seized property.

**"§ 229C. Individual self-defense devices**

"Nothing in this chapter shall be construed to prohibit any individual self-defense device, including those using a pepper spray or chemical mace.

**"§ 229D. Injunctions**

"The United States may obtain in a civil action an injunction against—

"(1) the conduct prohibited under section 229 or 229C of this title; or

"(2) the preparation or solicitation to engage in conduct prohibited under section 229 or 229D of this title.

**"§ 229E. Requests for military assistance to enforce prohibition in certain emergencies**

"The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 229 of this title in an emergency situation involving a chemical weapon. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.

**"§ 229F. Definitions**

"In this chapter:

"(1) CHEMICAL WEAPON.—The term 'chemical weapon' means the following, together or separately:

"(A) A toxic chemical and its precursors, except where intended for a purpose not prohibited under this chapter as long as the type and quantity is consistent with such a purpose.

"(B) A munition or device, specifically designed to cause death or other harm through toxic properties of those toxic chemicals specified in subparagraph (A), which would be released as a result of the employment of such munition or device.

"(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B).

"(2) CHEMICAL WEAPONS CONVENTION; CONVENTION.—The terms 'Chemical Weapons Convention' and 'Convention' mean the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993.

"(3) KEY COMPONENT OF A BINARY OR MULTICOMPONENT CHEMICAL SYSTEM.—The term 'key component of a binary or multicomponent chemical system' means the precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent system.

"(4) NATIONAL OF THE UNITED STATES.—The term 'national of the United States' has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"(5) PERSON.—The term 'person', except as otherwise provided, means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality or political subdivision of any such government or nation, or other entity located in the United States.

"(6) PRECURSOR.—

"(A) IN GENERAL.—The term 'precursor' means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. The

term includes any key component of a binary or multicomponent chemical system.

"(B) LIST OF PRECURSORS.—Precursors which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

"(7) PURPOSES NOT PROHIBITED BY THIS CHAPTER.—The term 'purposes not prohibited by this chapter' means the following:

"(A) PEACEFUL PURPOSES.—Any peaceful purpose related to an industrial, agricultural, research, medical, or pharmaceutical activity or other activity.

"(B) PROTECTIVE PURPOSES.—Any purpose directly related to protection against toxic chemicals and to protection against chemical weapons.

"(C) UNRELATED MILITARY PURPOSES.—Any military purpose of the United States that is not connected with the use of a chemical weapon or that is not dependent on the use of the toxic or poisonous properties of the chemical weapon to cause death or other harm.

"(D) LAW ENFORCEMENT PURPOSES.—Any law enforcement purpose, including any domestic riot control purpose and including imposition of capital punishment.

"(8) TOXIC CHEMICAL.—

"(A) IN GENERAL.—The term 'toxic chemical' means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. The term includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.

"(B) LIST OF TOXIC CHEMICALS.—Toxic chemicals which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

"(9) UNITED STATES.—The term 'United States' means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States and includes all places under the jurisdiction or control of the United States, including—

"(A) any of the places within the provisions of paragraph (41) of section 40102 of title 49, United States Code;

"(B) any civil aircraft of the United States or public aircraft, as such terms are defined in paragraphs (17) and (37), respectively, of section 40102 of title 49, United States Code; and

"(C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C., App. sec. 1903(b)).".

(b) CONFORMING AMENDMENTS.—

(1) WEAPONS OF MASS DESTRUCTION.—Section 2332a of title 18, United States Code, is amended—* * *

(2) TABLE OF CHAPTERS.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 11A the following new item: * * *

(c) REPEALS.—The following provisions of law are repealed:

(1) Section 2332c of title 18, United States Code, relating to chemical weapons.

(2) In the table of sections for chapter 113B of title 18, United States Code, the item relating to section 2332c.

## Subtitle B—Revocations of Export Privileges

**SEC. 211.[7] REVOCATIONS OF EXPORT PRIVILEGES.**

If the President determines, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, that any person within the United States, or any national of the United States located outside the United States, has committed any violation of section 229 of title 18, United States Code, the President may issue an order for the suspension or revocation of the authority of the person to export from the United States any goods or technology (as such terms are defined in section 16 of the Export Administration Act of 1979 (50 U.S.C. App. 2415)).

## TITLE III—INSPECTIONS

**SEC. 301.[8] DEFINITIONS IN THE TITLE.**

(a) IN GENERAL.—In this title, the terms "challenge inspection", "plant site", "plant", "facility agreement", "inspection team", and "requesting state party" have the meanings given those terms in Part I of the Annex on Implementation and Verification of the Chemical Weapons Convention. The term "routine inspection" means an inspection, other than an "initial inspection", undertaken pursuant to Article VI of the Convention.

(b) DEFINITION OF JUDGE OF THE UNITED STATES.—In this title, the term "judge of the United States" means a judge or magistrate judge of a district court of the United States.

**SEC. 302.[9] FACILITY AGREEMENTS.**

(a) AUTHORIZATION OF INSPECTIONS.—Inspections by the Technical Secretariat of plants, plant sites, or other facilities or locations for which the United States has a facility agreement with the Organization shall be conducted in accordance with the facility agreement. Any such facility agreement may not in any way limit the right of the owner or operator of the facility to withhold consent to an inspection request.

(b) TYPES OF FACILITY AGREEMENTS.—

(1) SCHEDULE TWO FACILITIES.—The United States National Authority shall ensure that facility agreements for plants, plant sites, or other facilities or locations that are subject to inspection pursuant to paragraph 4 of Article VI of the Convention are concluded unless the owner, operator, occupant, or agent in charge of the facility and the Technical Secretariat agree that such an agreement is not necessary.

[7] 18 U.S.C. 229 note.
[8] 22 U.S.C. 6721.
[9] 22 U.S.C. 6722.

(2) SCHEDULE THREE FACILITIES.—The United States National Authority shall ensure that facility agreements are concluded for plants, plant sites, or other facilities or locations that are subject to inspection pursuant to paragraph 5 or 6 of Article VI of the Convention if so requested by the owner, operator, occupant, or agent in charge of the facility.

(c) NOTIFICATION REQUIREMENTS.—The United States National Authority shall ensure that the owner, operator, occupant, or agent in charge of a facility prior to the development of the agreement relating to that facility is notified and, if the person notified so requests, the person may participate in the preparations for the negotiation of such an agreement. To the maximum extent practicable consistent with the Convention, the owner and the operator, occupant or agent in charge of a facility may observe negotiations of the agreement between the United States and the Organization concerning that facility.

(d) CONTENT OF FACILITY AGREEMENTS.—Facility agreements shall—

(1) identify the areas, equipment, computers, records, data, and samples subject to inspection;

(2) describe the procedures for providing notice of an inspection to the owner, occupant, operator, or agent in charge of a facility;

(3) describe the timeframes for inspections; and

(4) detail the areas, equipment, computers, records, data, and samples that are not subject to inspection.

**SEC. 303.[10] AUTHORITY TO CONDUCT INSPECTIONS.**

(a) PROHIBITION.—No inspection of a plant, plant site, or other facility or location in the United States shall take place under the Convention without the authorization of the United States National Authority in accordance with the requirements of this title.

(b) AUTHORITY.—

(1) TECHNICAL SECRETARIAT INSPECTION TEAMS.—Any duly designated member of an inspection team of the Technical Secretariat may inspect any plant, plant site, or other facility or location in the United States subject to inspection pursuant to the Convention.

(2) UNITED STATES GOVERNMENT REPRESENTATIVES.—The United States National Authority shall coordinate the designation of employees of the Federal Government (and, in the case of an inspection of a United States Government facility, the designation of contractor personnel who shall be led by an employee of the Federal Government)[11] to accompany members of an inspection team of the Technical Secretariat and, in doing so, shall ensure that—

(A)[12] a special agent of the Federal Bureau of Investigation, as designated by the Federal Bureau of Investigation,

[10] 22 U.S.C. 6723.

[11] Sec. 1204(a) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1247) inserted "(and, in the case of an inspection of a United States Government facility, the designation of contractor personnel who shall be led by an employee of the Federal Government)".

[12] Sec. 1117 of the Arms Control and Nonproliferation Act of 1999 (title XI of division B of H.R. 3427; 113 Stat. 1501A–489; as enacted by sec. 1000(7) of Public Law 106–113) provided the following:

accompanies each inspection team visit pursuant to paragraph (1);

(B) no employee of the Environmental Protection Agency or the Occupational Safety and Health Administration accompanies any inspection team visit conducted pursuant to paragraph (1); and

(C) the number of duly designated representatives shall be kept to the minimum necessary.

(3) OBJECTIONS TO INDIVIDUALS SERVING AS INSPECTORS.—

(A) IN GENERAL.—In deciding whether to exercise the right of the United States under the Convention to object to an individual serving as an inspector, the President shall give great weight to his reasonable belief that—

(i) such individual is or has been a member of, or a participant in, any group or organization that has engaged in, or attempted or conspired to engage in, or aided or abetted in the commission of, any terrorist act or activity;

(ii) such individual has committed any act or activity which would be a felony under the laws of the United States; or

(iii) the participation of such individual as a member of an inspection team would pose a risk to the national security or economic well-being of the United States.

(B) NOT SUBJECT TO JUDICIAL REVIEW.—Any objection by the President to an individual serving as an inspector, whether made pursuant to this section or otherwise, shall not be reviewable in any court.

(c)[13] EXCEPTION.—The requirement under subsection (b)(2)(A) shall not apply to inspections of United States chemical weapons destruction facilities (as used within the meaning of part IV(C)(13) of the Verification Annex to the Convention).

**SEC. 304.[14] PROCEDURES FOR INSPECTIONS.**

(a) TYPES OF INSPECTIONS.—Each inspection of a plant, plant site, or other facility or location in the United States under the Convention shall be conducted in accordance with this section and section 305, except where other procedures are provided in a facility agreement entered into under section 302.

(b) NOTICE.—

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**"SEC. 1117. PROTECTION OF UNITED STATES COMPANIES.**

"(a) REIMBURSEMENT.—During the 2-year period beginning on the date of the enactment of this Act, the United States National Authority (as designated pursuant to section 101 of the Chemical Weapons Convention Implementation Act of 1998 (as contained in division I of Public Law 105–277)) shall, upon request of the Director of the Federal Bureau of Investigation, reimburse the Federal Bureau of Investigation for all costs incurred by the Bureau for such period in connection with implementation of section 303(b)(2)(A) of that Act, except that such reimbursement may not exceed $2,000,000 for such 2-year period.

"(b) REPORT.—Not later than 180 days prior to the expiration of the 2-year period described in subsection (a), the Director of the Federal Bureau of Investigation shall prepare and submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report on how activities under section 303(b)(2)(A) of the Chemical Weapons Convention Implementation Act of 1998 will be fully funded and implemented by the Federal Bureau of Investigation notwithstanding the expiration of the 2-year period described in subsection (a).".

[13] Sec. 305 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 854) added subsec. (c).

[14] 22 U.S.C. 6724.

(1) IN GENERAL.—An inspection referred to in subsection (a) may be made only upon issuance of an actual written notice by the United States National Authority to the owner and to the operator, occupant, or agent in charge of the premises to be inspected.

(2) TIME OF NOTIFICATION[15].—The notice for a routine inspection shall be submitted to the owner and to the operator, occupant, or agent in charge within six hours of receiving the notification of the inspection from the Technical Secretariat or as soon as possible thereafter. Notice for a challenge inspection shall be provided at any appropriate time determined by the United States National Authority. Notices may be posted prominently at the plant, plant site, or other facility or location if the United States is unable to provide actual written notice to the owner, operator, or agent in charge of the premises.

(3) CONTENT OF NOTICE.—

(A) IN GENERAL.—The notice under paragraph (1) shall include all appropriate information supplied by the Technical Secretariat to the United States National Authority concerning—

(i) the type of inspection;

(ii) the basis for the selection of the plant, plant site, or other facility or location for the type of inspection sought;

(iii) the time and date that the inspection will begin and the period covered by the inspection; and

(iv) the names and titles of the inspectors.

(B) SPECIAL RULE FOR CHALLENGE INSPECTIONS.—In the case of a challenge inspection pursuant to Article IX of the Convention, the notice shall also include all appropriate evidence or reasons provided by the requesting state party to the Convention for seeking the inspection.

(4) SEPARATE NOTICES REQUIRED.—A separate notice shall be provided for each inspection, except that a notice shall not be required for each entry made during the period covered by the inspection.

(c) CREDENTIALS.—The head of the inspection team of the Technical Secretariat and the accompanying employees of the Federal Government (and, in the case of an inspection of a United States Government facility, any accompanying contractor personnel)[16] shall display appropriate identifying credentials to the owner, operator, occupant, or agent in charge of the premises before the inspection is commenced.

(d) TIMEFRAME FOR INSPECTIONS.—Consistent with the provisions of the Convention, each inspection shall be commenced and completed with reasonable promptness and shall be conducted at reasonable times, within reasonable limits, and in a reasonable manner.

(e) SCOPE.—

[15] As enrolled.

[16] Sec. 1204(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1247) struck out "Federal government" and inserted in lieu thereof "Federal Government (and, in the case of an inspection of a United States Government facility, any accompanying contractor personnel)".

(1) IN GENERAL.—Except as provided in a warrant issued under section 305 or a facility agreement entered into under section 302, an inspection conducted under this title may extend to all things within the premises inspected (including records, files, papers, processes, controls, structures and vehicles) related to whether the requirements of the Convention applicable to such premises have been complied with.

(2) EXCEPTION.—Unless required by the Convention, no inspection under this title shall extend to—

(A) financial data;

(B) sales and marketing data (other than shipment data);

(C) pricing data;

(D) personnel data;

(E) research data;

(F) patent data;

(G) data maintained for compliance with environmental or occupational health and safety regulations; or

(H) personnel and vehicles entering and personnel and personal passenger vehicles exiting the facility.

(f) SAMPLING AND SAFETY.—

(1) IN GENERAL.—The Director of the United States National Authority is authorized to require the provision of samples to a member of the inspection team of the Technical Secretariat in accordance with the provisions of the Convention. The owner or the operator, occupant or agent in charge of the premises to be inspected shall determine whether the sample shall be taken by representatives of the premises or the inspection team or other individuals present. No sample collected in the United States pursuant to an inspection permitted by this Act may be transferred for analysis to any laboratory outside the territory of the United States.

(2) COMPLIANCE WITH REGULATIONS.—In carrying out their activities, members of the inspection team of the Technical Secretariat and representatives of agencies or departments accompanying the inspection team shall observe safety regulations established at the premises to be inspected, including those for protection of controlled environments within a facility and for personal safety.

(g) COORDINATION.—The appropriate representatives of the United States, as designated, if present, shall assist the owner and the operator, occupant or agent in charge of the premises to be inspected in interacting with the members of the inspection team of the Technical Secretariat.

**SEC. 305.[17] WARRANTS.**

(a) IN GENERAL.—The United States Government shall seek the consent of the owner or the operator, occupant, or agent in charge of the premises to be inspected prior to any inspection referred to in section 304(a). If consent is obtained, a warrant is not required for the inspection. The owner or the operator, occupant, or agent in charge of the premises to be inspected may withhold consent for any reason or no reason. After providing notification pursuant to

[17] 22 U.S.C. 6725.

subsection (b), the United States Government may seek a search warrant from a United States magistrate judge. Proceedings regarding the issuance of a search warrant shall be conducted ex parte, unless otherwise requested by the United States Government.

(b) ROUTINE INSPECTIONS.—

(1) OBTAINING ADMINISTRATIVE SEARCH WARRANTS.—For any routine inspection conducted on the territory of the United States pursuant to Article VI of the Convention, where consent has been withheld, the United States Government shall first obtain an administrative search warrant from a judge of the United States. The United States Government shall provide to the judge of the United States all appropriate information supplied by the Technical Secretariat to the United States National Authority regarding the basis for the selection of the plant site, plant, or other facility or location for the type of inspection sought. The United States Government shall also provide any other appropriate information available to it relating to the reasonableness of the selection of the plant, plant site, or other facility or location for the inspection.

(2) CONTENT OF AFFIDAVITS FOR ADMINISTRATIVE SEARCH WARRANTS.—The judge of the United States shall promptly issue a warrant authorizing the requested inspection upon an affidavit submitted by the United States Government showing that—

(A) the Chemical Weapons Convention is in force for the United States;

(B) the plant site, plant, or other facility or location sought to be inspected is required to report data under title IV of this Act and is subject to routine inspection under the Convention;

(C) the purpose of the inspection is—

(i) in the case of any facility owned or operated by a non-Government entity related to Schedule 1 chemical agents, to verify that the facility is not used to produce any Schedule 1 chemical agent except for declared chemicals; quantities of Schedule 1 chemicals produced, processed, or consumed are correctly declared and consistent with needs for the declared purpose; and Schedule 1 chemicals are not diverted or used for other purposes;

(ii) in the case of any facility related to Schedule 2 chemical agents, to verify that activities are in accordance with obligations under the Convention and consistent with the information provided in data declarations; and

(iii) in the case of any facility related to Schedule 3 chemical agents and any other chemical production facility, to verify that the activities of the facility are consistent with the information provided in data declarations;

(D) the items, documents, and areas to be searched and seized;

(E) in the case of a facility related to Schedule 2 or Schedule 3 chemical agents or unscheduled discrete organic chemicals, the plant site has not been subject to more than 1 routine inspection in the current calendar year, and, in the case of facilities related to Schedule 3 chemical agents or unscheduled discrete organic chemicals, the inspection will not cause the number of routine inspections in the United States to exceed 20 in a calendar year;

(F) the selection of the site was made in accordance with procedures established under the Convention and, in particular—

(i) in the case of any facility owned or operated by a non-Government entity related to Schedule 1 chemical agents, the intensity, duration, timing, and mode of the requested inspection is based on the risk to the object and purpose of the Convention by the quantities of chemical produced, the characteristics of the facility and the nature of activities carried out at the facility, and the requested inspection, when considered with previous such inspections of the facility undertaken in the current calendar year, shall not exceed the number reasonably required based on the risk to the object and purpose of the Convention as described above;

(ii) in the case of any facility related to Schedule 2 chemical agents, the Technical Secretariat gave due consideration to the risk to the object and purpose of the Convention posed by the relevant chemical, the characteristics of the plant site and the nature of activities carried out there, taking into account the respective facility agreement as well as the results of the initial inspections and subsequent inspections; and

(iii) in the case of any facility related to Schedule 3 chemical agents or unscheduled discrete organic chemicals, the facility was selected randomly by the Technical Secretariat using appropriate mechanisms, such as specifically designed computer software, on the basis of two weighting factors: (I) equitable geographical distribution of inspections; and (II) the information on the declared sites available to the Technical Secretariat, related to the relevant chemical, the characteristics of the plant site, and the nature of activities carried out there;

(G) the earliest commencement and latest closing dates and times of the inspection; and

(H) the duration of inspection will not exceed time limits specified in the Convention unless agreed by the owner, operator, or agent in charge of the plant.

(3) CONTENT OF WARRANTS.—A warrant issued under paragraph (2) shall specify the same matters required of an affidavit under that paragraph. In addition to the requirements for a warrant issued under this paragraph, each warrant shall contain, if known, the identities of the representatives of the

Technical Secretariat conducting the inspection and the observers of the inspection and, if applicable, the identities of the representatives of agencies or departments of the United States accompanying those representatives.

(4) CHALLENGE INSPECTIONS.—

(A) CRIMINAL SEARCH WARRANT.—For any challenge inspection conducted on the territory of the United States pursuant to Article IX of the Chemical Weapons Convention, where consent has been withheld, the United States Government shall first obtain from a judge of the United States a criminal search warrant based upon probable cause, supported by oath or affirmation, and describing with particularity the place to be searched and the person or things to be seized.

(B) INFORMATION PROVIDED.—The United States Government shall provide to the judge of the United States—

(i) all appropriate information supplied by the Technical Secretariat to the United States National Authority regarding the basis for the selection of the plant site, plant, or other facility or location for the type of inspection sought;

(ii) any other appropriate information relating to the reasonableness of the selection of the plant, plant site, or other facility or location for the inspection;

(iii) information concerning—

(I) the duration and scope of the inspection;

(II) areas to be inspected;

(III) records and data to be reviewed; and

(IV) samples to be taken;

(iv) appropriate evidence or reasons provided by the requesting state party for the inspection;

(v) any other evidence showing probable cause to believe that a violation of this Act has occurred or is occurring; and

(vi) the identities of the representatives of the Technical Secretariat on the inspection team and the Federal Government employees accompanying the inspection team.

(C) CONTENT OF WARRANT.—The warrant shall specify—

(i) the type of inspection authorized;

(ii) the purpose of the inspection;

(iii) the type of plant site, plant, or other facility or location to be inspected;

(iv) the areas of the plant site, plant, or other facility or location to be inspected;

(v) the items, documents, data, equipment, and computers that may be inspected or seized;

(vi) samples that may be taken;

(vii) the earliest commencement and latest concluding dates and times of the inspection; and

(viii) the identities of the representatives of the Technical Secretariat on the inspection teams and the

Federal Government employees accompanying the inspection team.

**SEC. 306.[18] PROHIBITED ACTS RELATING TO INSPECTIONS.**

It shall be unlawful for any person willfully to fail or refuse to permit entry or inspection, or to disrupt, delay, or otherwise impede an inspection, authorized by this Act.

**SEC. 307.[19] NATIONAL SECURITY EXCEPTION.**

Consistent with the objective of eliminating chemical weapons, the President may deny a request to inspect any facility in the United States in cases where the President determines that the inspection may pose a threat to the national security interests of the United States.

**SEC. 308. PROTECTION OF CONSTITUTIONAL RIGHTS OF CONTRACTORS.**

(a) The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following: * * *

(b) The table of contents in section 1(b) of such Act is amended by adding at the end the following: * * *

**SEC. 309.[20] ANNUAL REPORT ON INSPECTIONS.**

(a) IN GENERAL.—Not later than one year after the date of enactment of this Act, and annually thereafter, the President[21] shall submit a report in classified and unclassified form to the appropriate congressional committees on inspections made under the Convention during the preceding year.

(b) CONTENT OF REPORTS.—Each report shall contain the following information for the reporting period:

(1) The name of each company or entity subject to the jurisdiction of the United States reporting data pursuant to title IV of this Act.

(2) The number of inspections under the Convention conducted on the territory of the United States.

(3) The number and identity of inspectors conducting any inspection described in paragraph (2) and the number of inspectors barred from inspection by the United States.

(4) The cost to the United States for each inspection described in paragraph (2).

(5) The total costs borne by United States business firms in the course of inspections described in paragraph (2).

(6) A description of the circumstances surrounding inspections described in paragraph (2), including instances of possible industrial espionage and misconduct of inspectors.

(7) The identity of parties claiming loss of trade secrets, the circumstances surrounding those losses, and the efforts taken by the United States Government to redress those losses.

(8) A description of instances where inspections under the Convention outside the United States have been disrupted or delayed.

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[18] 22 U.S.C. 6726.
[19] 22 U.S.C. 6727.
[20] 22 U.S.C. 6728.
[21] In sec. 1(a)(16) of Executive Order 13313 of July 31, 2003 (68 F.R. 46073; August 5, 2003), the President assigned the reporting duties in subsec. (a) to the Secretary of State.

(c) DEFINITION.—The term "appropriate congressional committees" means the Committee on the Judiciary, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary, the Committee on International Relations, and the Permanent Select Committee on Intelligence of the House of Representatives.

**SEC. 310.[22] UNITED STATES ASSISTANCE IN INSPECTIONS AT PRIVATE FACILITIES.**

(a) ASSISTANCE IN PREPARATION FOR INSPECTIONS.—At the request of an owner of a facility not owned or operated by the United States Government, or contracted for use by or for the United States Government, the Secretary of Defense may assist the facility to prepare the facility for possible inspections pursuant to the Convention.

(b) REIMBURSEMENT REQUIREMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the owner of a facility provided assistance under subsection (a) shall reimburse the Secretary for the costs incurred by the Secretary in providing the assistance.

(2) EXCEPTION.—In the case of assistance provided under subsection (a) to a facility owned by a person described in subsection (c), the United States National Authority shall reimburse the Secretary for the costs incurred by the Secretary in providing the assistance.

(c) OWNERS COVERED BY UNITED STATES NATIONAL AUTHORITY REIMBURSEMENTS.—Subsection (b)(2) applies in the case of assistance provided to the following:

(1) SMALL BUSINESS CONCERNS.—A small business concern as defined in section 3 of the Small Business Act.

(2) DOMESTIC PRODUCERS OF SCHEDULE 3 OR UNSCHEDULED DISCRETE ORGANIC CHEMICALS.—Any person located in the United States that—

(A) does not possess, produce, process, consume, import, or export any Schedule 1 or Schedule 2 chemical; and

(B) in the calendar year preceding the year in which the assistance is to be provided, produced—

(i) more than 30 metric tons of Schedule 3 or unscheduled discrete organic chemicals that contain phosphorous, sulfur, or fluorine; or

(ii) more than 200 metric tons of unscheduled discrete organic chemicals.

## TITLE IV—REPORTS [23]

**SEC. 401.[24] REPORTS REQUIRED BY THE UNITED STATES NATIONAL AUTHORITY.**

(a) REGULATIONS ON RECORDKEEPING.—

[22] 22 U.S.C. 6729.

[23] Condition 10(C) of the Senate resolution of advice and consent to ratification of the Chemical Weapons Convention (Treaty No. 103–21; April 24, 1997) requires the President to submit annual reports on parties' compliance under the treaty. Sec. 2(a)(3) of Executive Order 13313 dated July 31, 2003 (68 F.R. 46076; August 5, 2003) assigned this requirement to the Secretary of State.

[24] 22 U.S.C. 6741.

(1) REQUIREMENTS.—The United States National Authority shall ensure that regulations are prescribed that require each person located in the United States who produces, processes, consumes, exports, or imports, or proposes to produce, process, consume, export, or import, a chemical substance that is subject to the Convention to—

(A) maintain and permit access to records related to that production, processing, consumption, export, or import of such substance; and

(B) submit to the Director of the United States National Authority such reports as the United States National Authority may reasonably require to provide to the Organization, pursuant to subparagraph 1(a) of the Annex on Confidentiality of the Convention, the minimum amount of information and data necessary for the timely and efficient conduct by the Organization of its responsibilities under the Convention.

(2) RULEMAKING.—The Director of the United States National Authority shall ensure that regulations pursuant to this section are prescribed expeditiously.

(b) COORDINATION.—

(1) AVOIDANCE OF DUPLICATION.—To the extent feasible, the United States Government shall not require the submission of any report that is unnecessary or duplicative of any report required by or under any other law. The head of each Federal agency shall coordinate the actions of that agency with the heads of the other Federal agencies in order to avoid the imposition of duplicative reporting requirements under this Act or any other law.

(2) DEFINITION.—As used in paragraph (1), the term "Federal agency" has the meaning given the term "agency" in section 551(1) of title 5, United States Code.

**SEC. 402.[25] PROHIBITION RELATING TO LOW CONCENTRATIONS OF SCHEDULE 2 AND 3 CHEMICALS.**

(a) PROHIBITION.—Notwithstanding any other provision of this Act, no person located in the United States shall be required to report on, or to submit to, any routine inspection conducted for the purpose of verifying the production, possession, consumption, exportation, importation, or proposed production, possession, consumption, exportation, or importation of any substance that contains less than—

(1) 10 percent concentration of a Schedule 2 chemical; or

(2) 80 percent concentration of a Schedule 3 chemical.

(b) STANDARD FOR MEASUREMENT OF CONCENTRATION.—The percent concentration of a chemical in a substance shall be measured on the basis of volume or total weight, which measurement yields the lesser percent.

[25] 22 U.S.C. 6742.

**SEC. 403.[26] PROHIBITION RELATING TO UNSCHEDULED DISCRETE ORGANIC CHEMICALS AND COINCIDENTAL BYPRODUCTS IN WASTE STREAMS.**

(a) PROHIBITION.—Notwithstanding any other provision of this Act, no person located in the United States shall be required to report on, or to submit to, any routine inspection conducted for the purpose of verifying the production, possession, consumption, exportation, importation, or proposed production, possession, consumption, exportation, or importation of any substance that is—

(1) an unscheduled discrete organic chemical; and

(2) a coincidental byproduct of a manufacturing or production process that is not isolated or captured for use or sale during the process and is routed to, or escapes, from the waste stream of a stack, incinerator, or wastewater treatment system or any other waste stream.

**SEC. 404.[27] CONFIDENTIALITY OF INFORMATION.**

(a) FREEDOM OF INFORMATION ACT EXEMPTION FOR CERTAIN CONVENTION INFORMATION.—Except as provided in subsection (b) or (c), any confidential business information, as defined in section 103(g), reported to, or otherwise acquired by, the United States Government under this Act or under the Convention shall not be disclosed under section 552(a) of title 5, United States Code.

(b) EXCEPTIONS.—

(1) INFORMATION FOR THE TECHNICAL SECRETARIAT.—Information shall be disclosed or otherwise provided to the Technical Secretariat or other states parties to the Chemical Weapons Convention in accordance with the Convention, in particular, the provisions of the Annex on the Protection of Confidential Information.

(2) INFORMATION FOR CONGRESS.—Information shall be made available to any committee or subcommittee of Congress with appropriate jurisdiction upon the written request of the chairman or ranking minority member of such committee or subcommittee, except that no such committee or subcommittee, and no member and no staff member of such committee or subcommittee, shall disclose such information or material except as otherwise required or authorized by law.

(3) INFORMATION FOR ENFORCEMENT ACTIONS.—Information shall be disclosed to other Federal agencies for enforcement of this Act or any other law, and shall be disclosed or otherwise provided when relevant in any proceeding under this Act or any other law, except that disclosure or provision in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding.

(c) INFORMATION DISCLOSED IN THE NATIONAL INTEREST.—

(1) AUTHORITY.—The United States Government shall disclose any information reported to, or otherwise required by the United States Government under this Act or the Convention, including categories of such information, that it determines is

[26] 22 U.S.C. 6743.
[27] 22 U.S.C. 6744.

in the national interest to disclose and may specify the form in which such information is to be disclosed.

(2) NOTICE OF DISCLOSURE.—

(A) REQUIREMENT.—If any Department or agency of the United States Government proposes pursuant to paragraph (1) to publish or disclose or otherwise provide information exempt from disclosure under subsection (a), the United States National Authority shall, unless contrary to national security or law enforcement needs, provide notice of intent to disclose the information—

(i) to the person that submitted such information; and

(ii) in the case of information about a person received from another source, to the person to whom that information pertains.

The information may not be disclosed until the expiration of 30 days after notice under this paragraph has been provided.

(B) PROCEEDINGS ON OBJECTIONS.—In the event that the person to which the information pertains objects to the disclosure, the agency shall promptly review the grounds for each objection of the person and shall afford the objecting person a hearing for the purpose of presenting the objections to the disclosure. Not later than 10 days before the scheduled or rescheduled date for the disclosure, the United States National Authority shall notify such person regarding whether such disclosure will occur notwithstanding the objections.

(d) CRIMINAL PENALTY FOR WRONGFUL DISCLOSURE.—Any officer or employee of the United States, and any former officer or employee of the United States, who by reason of such employment or official position has obtained possession of, or has access to, information the disclosure or other provision of which is prohibited by subsection (a), and who, knowing that disclosure or provision of such information is prohibited by such subsection, willfully discloses or otherwise provides the information in any manner to any person (including any person located outside the territory of the United States) not authorized to receive it, shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both.

(e) CRIMINAL FORFEITURE.—The property of any person who violates subsection (d) shall be subject to forfeiture to the United States in the same manner and to the same extent as is provided in section 229C of title 18, United States Code, as added by this Act.

(f) INTERNATIONAL INSPECTORS.—The provisions of this section shall also apply to employees of the Technical Secretariat.

**SEC. 405.[28] RECORDKEEPING VIOLATIONS.**

It shall be unlawful for any person willfully to fail or refuse—

(1) to establish or maintain any record required by this Act or any regulation prescribed under this Act;

[28] 22 U.S.C. 6745.

(2) to submit any report, notice, or other information to the United States Government in accordance with this Act or any regulation prescribed under this Act; or

(3) to permit access to or copying of any record that is exempt from disclosure under this Act or any regulation prescribed under this Act.

## TITLE V—ENFORCEMENT

**SEC. 501.[29] PENALTIES.**

(a) CIVIL.—

(1) PENALTY AMOUNTS.—

(A) PROHIBITED ACTS RELATING TO INSPECTIONS.—Any person that is determined, in accordance with paragraph (2), to have violated section 306 of this Act shall be required by order to pay a civil penalty in an amount not to exceed $25,000 for each such violation. For purposes of this paragraph, each day such a violation of section 306 continues shall constitute a separate violation of that section.

(B) RECORDKEEPING VIOLATIONS.—Any person that is determined, in accordance with paragraph (2), to have violated section 405 of this Act shall be required by order to pay a civil penalty in an amount not to exceed $5,000 for each such violation.

(2) HEARING.—

(A) IN GENERAL.—Before imposing an order described in paragraph (1) against a person under this subsection for a violation of section 306 or 405, the Secretary of State shall provide the person or entity with notice and, upon request made within 15 days of the date of the notice, a hearing respecting the violation.

(B) CONDUCT OF HEARING.—Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. If no hearing is so requested, the Secretary of State's imposition of the order shall constitute a final and unappealable order.

(C) ISSUANCE OF ORDERS.—If the administrative law judge determines, upon the preponderance of the evidence received, that a person or entity named in the complaint has violated section 306 or 405, the administrative law judge shall state his findings of fact and issue and cause to be served on such person or entity an order described in paragraph (1).

(D) FACTORS FOR DETERMINATION OF PENALTY AMOUNTS.—In determining the amount of any civil penalty, the administrative law judge shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, the ability to pay, effect on ability to continue to do business, any

[29] 22 U.S.C. 6761.

history of prior such violations, the degree of culpability, the existence of an internal compliance program, and such other matters as justice may require.

(3) ADMINISTRATIVE APPELLATE REVIEW.—The decision and order of an administrative law judge shall become the final agency decision and order of the head of the United States National Authority unless, within 30 days, the head of the United States National Authority modifies or vacates the decision and order, with or without conditions, in which case the decision and order of the head of the United States National Authority shall become a final order under this subsection.

(4) OFFSETS.—The amount of the civil penalty under a final order of the United States National Authority may be deducted from any sums owed by the United States to the person.

(5) JUDICIAL REVIEW.—A person adversely affected by a final order respecting an assessment may, within 30 days after the date the final order is issued, file a petition in the Court of Appeals for the District of Columbia Circuit or for any other circuit in which the person resides or transacts business.

(6) ENFORCEMENT OF ORDERS.—If a person fails to comply with a final order issued under this subsection against the person or entity—

(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (5), or

(B) after a court in an action brought under paragraph (5) has entered a final judgment in favor of the United States National Authority,

the Secretary of State shall file a suit to seek compliance with the order in any appropriate district court of the United States, plus interest at currently prevailing rates calculated from the date of expiration of the 30-day period referred to in paragraph (5) or the date of such final judgment, as the case may be. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

(b) CRIMINAL.—Any person who knowingly violates any provision of section 306 or 405 of this Act, shall, in addition to or in lieu of any civil penalty which may be imposed under subsection (a) for such violation, be fined under title 18, United States Code, imprisoned for not more than one year, or both.

**SEC. 502.[30] SPECIFIC ENFORCEMENT.**

(a) JURISDICTION.—The district courts of the United States shall have jurisdiction over civil actions to—

(1) restrain any violation of section 306 or 405 of this Act; and

(2) compel the taking of any action required by or under this Act or the Convention.

(b) CIVIL ACTIONS.—

(1) IN GENERAL.—A civil action described in subsection (a) may be brought—

[30] 22 U.S.C. 6762.

(A) in the case of a civil action described in subsection (a)(1), in the United States district court for the judicial district in which any act, omission, or transaction constituting a violation of section 306 or 405 occurred or in which the defendant is found or transacts business; or

(B) in the case of a civil action described in subsection (a)(2), in the United States district court for the judicial district in which the defendant is found or transacts business.

(2) SERVICE OF PROCESS.—In any such civil action process may be served on a defendant wherever the defendant may reside or may be found, whether the defendant resides or may be found within the United States or elsewhere.

**SEC. 503.[31] EXPEDITED JUDICIAL REVIEW.**

(a) CIVIL ACTION.—Any person or entity subject to a search under this Act may file a civil action challenging the constitutionality of any provision of this Act. Notwithstanding any other provision of law, during the full calendar year of, and the two full calendar years following, the enactment of this Act, the district court shall accord such a case a priority in its disposition ahead of all other civil actions except for actions challenging the legality and conditions of confinement.

(b) EN BANC REVIEW.—Notwithstanding any other provision of law, during the full calendar year of, and the two full calendar years following, the enactment of this Act, any appeal from a final order entered by a district court in an action brought under subsection (a) shall be heard promptly by the full Court of Appeals sitting en banc.

## TITLE VI—MISCELLANEOUS PROVISIONS

**SEC. 601. REPEAL.**

Section 808 of the Department of Defense Appropriation Authorization Act, 1978 (50 U.S.C. 1520; relating to the use of human subjects for the testing of chemical or biological agents) is repealed.

**SEC. 602.[32] PROHIBITION.**

(a) IN GENERAL.—Neither the Secretary of Defense nor any other officer or employee of the United States may, directly or by contract—

(1) conduct any test or experiment involving the use of any chemical or biological agent on a civilian population; or

(2) use human subjects for the testing of chemical or biological agents.

(b) CONSTRUCTION.—Nothing in subsection (a) may be construed to prohibit actions carried out for purposes not prohibited by this Act (as defined in section 3(8)).

(c) BIOLOGICAL AGENT DEFINED.—In this section, the term "biological agent" means any micro-organism (including bacteria, viruses, fungi, rickettsiae or protozoa), pathogen, or infectious substance, or any naturally occurring, bio-engineered or synthesized

[31] 22 U.S.C. 6763.
[32] 22 U.S.C. 6771.

component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, capable of causing—

(1) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(2) deterioration of food, water, equipment, supplies, or materials of any kind; or

(3) deleterious alteration of the environment.

**SEC. 603. BANKRUPTCY ACTIONS.**

Section 362(b) of title 11, United States Code, is amended—

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## o. Defense Against Weapons of Mass Destruction Act of 1998

**Partial text of Public Law 105–261 [Strom Thurmond National Defense Authorization Act for Fiscal Year 1999; H.R. 3616], 112 Stat. 1920, approved October 17, 1998; as amended by Public Law 106–65 [National Defense Authorization Act for Fiscal Year 2000; S. 1059], 113 Stat. 512, approved October 5, 1999; Public Law 106–398 [National Defense Authorization Act, Fiscal Year 2001; H.R. 4205], 114 Stat. 1654, approved October 30, 2000; Public Law 107–107 [National Defense Authorization Act for Fiscal Year 2002; S. 1438], 115 Stat. 1012, approved December 28, 2001; and Public Law 107–296 [Homeland Security Act of 2002; H.R. 5005], 116 Stat. 2135, approved November 25, 2002**

AN ACT To authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

* * * * * * *

## TITLE XIV—DOMESTIC PREPAREDNESS FOR DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION [1]


Sec. 1401. Short title.
Sec. 1402. Domestic preparedness for response to threats of terrorist use of weapons of mass destruction.
Sec. 1403. Report on domestic emergency preparedness.
Sec. 1404. Threat and risk assessments.
Sec. 1405. Advisory panel to assess domestic response capabilities for terrorism involving weapons of mass destruction.


### SEC. 1401. SHORT TITLE.

This title may be cited as the "Defense Against Weapons of Mass Destruction Act of 1998".

### SEC. 1402. DOMESTIC PREPAREDNESS FOR RESPONSE TO THREATS OF TERRORIST USE OF WEAPONS OF MASS DESTRUCTION.

(a) ENHANCED RESPONSE CAPABILITY.—In light of the continuing potential for terrorist use of weapons of mass destruction against the United States and the need to develop a more fully coordinated response to that threat on the part of Federal, State, and local agencies, the President shall act to increase the effectiveness at the Federal, State, and local level of the domestic emergency preparedness program for response to terrorist incidents involving weapons of mass destruction by utilizing the President's existing authorities to develop an integrated program that builds upon the program established under the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 110 Stat. 2714; 50 U.S.C. 2301 et seq.).

[1] 50 U.S.C. 2301 note.

(b) REPORT.—Not later than January 31, 1999, the President shall submit to Congress a report containing information on the actions taken at the Federal, State, and local level to develop an integrated program to prevent and respond to terrorist incidents involving weapons of mass destruction.

**SEC. 1403.**[2] * * * [Repealed—2002]

**SEC. 1404.**[3] **THREAT AND RISK ASSESSMENTS.**

(a) THREAT AND RISK ASSESSMENTS.—Assistance to Federal, State, and local agencies provided under the program under section 1402 shall include the performance of assessments of the threat and risk of terrorist employment of weapons of mass destruction against cities and other local areas. Such assessments shall be used by Federal, State, and local agencies to determine the training and equipment requirements under this program and shall be performed as a collaborative effort with State and local agencies.

(b) CONDUCT OF ASSESSMENTS.—The Department of Justice, as lead Federal agency for domestic crisis management in response to terrorism involving weapons of mass destruction, shall—

(1) conduct any threat and risk assessment performed under subsection (a) in coordination with appropriate Federal, State, and local agencies; and

(2) develop procedures and guidance for conduct of the threat and risk assessment in consultation with officials from the intelligence community.

**SEC. 1405. ADVISORY PANEL TO ASSESS DOMESTIC RESPONSE CAPABILITIES FOR TERRORISM INVOLVING WEAPONS OF MASS DESTRUCTION.**

(a) REQUIREMENT FOR PANEL.—The Secretary of Defense, in consultation with the Attorney General, the Secretary of Energy, the Secretary of Health and Human Services, and the Director of the Federal Emergency Management Agency, shall enter into a contract with a federally funded research and development center to establish a panel to assess the capabilities for domestic response to terrorism involving weapons of mass destruction.

(b) COMPOSITION OF PANEL; SELECTION.—(1) The panel shall be composed of members who shall be private citizens of the United

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[2] Formerly at 50 U.S.C. 2301 note. Sec. 889(b)(2) of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2135) repealed this section. The section amended sec. 1051 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1889; 31 U.S.C. 1113 note) by adding subsec. (c), which required that the President submit an annex, attached to the annual report required in subsec. (b) of sec. 1051, containing information on the domestic emergency preparedness program for response to terrorist incidents involving weapons of mass destruction.

[3] Sec. 1064 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 769) replaced the former sec. 1404 with this section. The former sec. 1404 read as follows:

**"SEC. 1404. THREAT AND RISK ASSESSMENTS.**

"(a) REQUIREMENT TO DEVELOP METHODOLOGIES.—The Attorney General, in consultation with the Director of the Federal Bureau of Investigation and representatives of appropriate Federal, State, and local agencies, shall develop and test methodologies for assessing the threat and risk of terrorist employment of weapons of mass destruction against cities and other local areas. The results of the tests may be used to determine the training and equipment requirements under the program developed under section 1402. The methodologies required by this subsection shall be developed using cities or local areas selected by the Attorney General, acting in consultation with the Director of the Federal Bureau of Investigation and appropriate representatives of Federal, State, and local agencies.

"(b) REQUIRED COMPLETION DATE.—The requirements in subsection (a) shall be completed not later than 1 year after the date of the enactment of this Act.".

States with knowledge and expertise in emergency response matters.

(2) Members of the panel shall be selected by the federally funded research and development center in accordance with the terms of the contract established pursuant to subsection (a).

(c) PROCEDURES FOR PANEL.—The federally funded research and development center shall be responsible for establishing appropriate procedures for the panel, including procedures for selection of a panel chairman.

(d) DUTIES OF PANEL.—The panel shall—

(1) assess Federal agency efforts to enhance domestic preparedness for incidents involving weapons of mass destruction;

(2) assess the progress of Federal training programs for local emergency responses to incidents involving weapons of mass destruction;

(3) assess deficiencies in programs for response to incidents involving weapons of mass destruction, including a review of unfunded communications, equipment, and planning requirements, and the needs of maritime regions;

(4) recommend strategies for ensuring effective coordination with respect to Federal agency weapons of mass destruction response efforts, and for ensuring fully effective local response capabilities for weapons of mass destruction incidents; and

(5) assess the appropriate roles of State and local government in funding effective local response capabilities.

(e) DEADLINE TO ENTER INTO CONTRACT.—The Secretary of Defense shall enter into the contract required under subsection (a) not later than 60 days after the date of the enactment of this Act.

(f) DEADLINE FOR SELECTION OF PANEL MEMBERS.—Selection of panel members shall be made not later than 30 days after the date on which the Secretary enters into the contract required by subsection (a).

(g) INITIAL MEETING OF THE PANEL.—The panel shall conduct its first meeting not later than 30 days after the date that all the selections to the panel have been made.

(h) REPORTS.—(1) Not later than 6 months after the date of the first meeting of the panel, the panel shall submit to the President and to Congress an initial report setting forth its findings, conclusions, and recommendations for improving Federal, State, and local domestic emergency preparedness to respond to incidents involving weapons of mass destruction.

(2) Not later than December 15 of each year, beginning in 1999 and ending in 2003,[4] the panel shall submit to the President and to the Congress a report setting forth its findings, conclusions, and recommendations for improving Federal, State, and local domestic emergency preparedness to respond to incidents involving weapons of mass destruction.

(i) COOPERATION OF OTHER AGENCIES.—(1) The panel may secure directly from the Department of Defense, the Department of Energy, the Department of Health and Human Services, the Department of Justice, and the Federal Emergency Management Agency,

[4] Sec. 1514(a)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1273) struck out "2001" and inserted in lieu thereof "2003".

or any other Federal department or agency information that the panel considers necessary for the panel to carry out its duties.

(2) The Attorney General, the Secretary of Defense, the Secretary of Energy, the Secretary of Health and Human Services, the Director of the Federal Emergency Management Agency, and any other official of the United States shall provide the panel with full and timely cooperation in carrying out its duties under this section.

(j) FUNDING.—The Secretary of Defense shall provide the funds necessary for the panel to carry out its duties from the funds available to the Department of Defense for weapons of mass destruction preparedness initiatives.

(k)[5] COMPENSATION OF PANEL MEMBERS.—The provisions of paragraph (4) of section 591(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in section 101(d) of division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277; 112 Stat. 2681–212)), shall apply to members of the panel in the same manner as to members of the National Commission on Terrorism under that paragraph.

(l) TERMINATION OF THE PANEL.—The panel shall terminate five years[6] after the date of the appointment of the member selected as chairman of the panel.

(m) DEFINITION.—In this section, the term "weapon of mass destruction" has the meaning given that term in section 1403(1) of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1)).

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[5] Sec. 1514(b)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1012) amended and restated the former subsec. (k). Sec. 1514(b)(2) stated that this amendment "shall apply with respect to periods of service on the advisory panel under section 1405 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 on or after the date of the enactment of this Act." Subsec. (k) previously read as follows:

"(k) COMPENSATION OF PANEL MEMBERS.—(1) Members of the panel shall serve without pay by reason of their work on the panel.

"(2) Members of the panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under chapter 57 of title 5, United States Code, while away from their homes or regular place of business in performance of services for the panel.".

Sec. 1087(d)(7) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398; 114 Stat. 1654) had earlier struck out "subchapter" where it appeared in the former subsec. (k)(2) and inserted in lieu thereof "chapter" so that it read "chapter 57".

[6] Sec. 1514(a)(2) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1012) struck out "three years" and inserted in lieu thereof "five years".

## p. Combatting[1] Proliferation of Weapons of Mass Destruction Act of 1996

**Partial text of Public Law 104–293 [Intelligence Authorization Act for Fiscal Year 1997; H.R. 3259], 110 Stat. 3461, approved October 11, 1996; as amended by Public Law 105–277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; Public Law 107–306 [Intelligence Authorization Act for Fiscal Year 2003; H.R. 4628], 116 Stat. 2383, approved November 27, 2002; Public Law 107–314 [Bob Stump National Defense Authorization Act for Fiscal Year 2003; H.R. 4546], 116 Stat. 2458, approved December 2, 2002; and Public Law 108–177 [Intelligence Authorization Act for Fiscal Year 2004; H.R. 2417], 117 Stat. 2599, approved December 13, 2003**

AN ACT To authorize appropriations for fiscal year 1997 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1997".

(b) TABLE OF CONTENTS.—* * *

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## TITLE VII—COMBATTING PROLIFERATION

**SEC. 701.[2] SHORT TITLE.**

This title may be cited as the "Combatting Proliferation of Weapons of Mass Destruction Act of 1996".

## Subtitle A—Assessment of Organization and Structure of Government for Combatting Proliferation

**SEC. 711.[3] ESTABLISHMENT OF COMMISSION.**

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction (in this subtitle referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall be composed of twelve members, none of whom may, during the period of their service on the Commission, be an officer or employee of any department, agency, or other establishment of the Executive Branch (other than the Commission), and[4] of whom—

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[1] As enrolled.
[2] 50 U.S.C. 2301 note.
[3] 50 U.S.C. 2351 note.
[4] Sec. 708(b)(1) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (sec. 101(f) of Public Law 105–277; 112 Stat. 2681–390), struck out "eight members" and inserted in lieu thereof "twelve members, none of whom

(1) four shall be appointed by the President;

(2) three[5] shall be appointed by the Majority Leader of the Senate;

(3) one shall be appointed by the Minority Leader of the Senate;

(4) three[6] shall be appointed by the Speaker of the House of Representatives; and

(5) one shall be appointed by the Minority Leader of the House of Representatives.

(c) QUALIFICATIONS OF MEMBERS.—(1) To the maximum extent practicable, the individuals appointed as members of the Commission shall be individuals who are nationally recognized for expertise regarding—

(A) the nonproliferation of weapons of mass destruction;

(B) the efficient and effective implementation of United States nonproliferation policy; or

(C) the implementation, funding, or oversight of the national security policies of the United States.

(2) An official who appoints members of the Commission may not appoint an individual as a member if, in the judgment of the official, the individual possesses any personal or financial interest in the discharge of any of the duties of the Commission.

(d) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(e) INITIAL MEETING.—Not later than 30 days after the date of enactment of an Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1999, regardless of whether all the members of the Commission have been appointed as of that date,,[7] the Commission shall hold its first meeting.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

(h) MEETINGS.—The Commission shall meet at the call of the Chairman.

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may, during the period of their service on the Commission, be an officer or employee of any department, agency, or other establishment of the Executive Branch (other than the Commission), and".

[5] Sec. 708(b)(2) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (sec. 101(f) of Public Law 105–277; 112 Stat. 2681–390), struck out "one" and inserted in lieu thereof "three".

[6] Sec. 708(b)(3) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (sec. 101(f) of Public Law 105–277; 112 Stat. 2681–390), struck out "one" and inserted in lieu thereof "three".

[7] Sec. 708(b)(4) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (sec. 101(f) of Public Law 105–277; 112 Stat. 2681–390), struck out "the date on which all members of the Commission have been appointed" and inserted in lieu thereof "the date of enactment of an Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1999, regardless of whether all the members of the Commission have been appointed as of that date," [resulting in a double comma].

**SEC. 712.[3] DUTIES OF COMMISSION.**

(a) STUDY.—

(1) IN GENERAL.—The Commission shall carry out a thorough study of the organization of the Federal Government, including the elements of the intelligence community, with respect to combatting the proliferation of weapons of mass destruction.

(2) SPECIFIC REQUIREMENTS.—In carrying out the study, the Commission shall—

(A) assess the current structure and organization of the departments and agencies of the Federal Government having responsibilities for combatting the proliferation of weapons of mass destruction; and

(B) assess the effectiveness of United States cooperation with foreign governments with respect to nonproliferation activities, including cooperation—

(i) between elements of the intelligence community and elements of the intelligence-gathering services of foreign governments;

(ii) between other departments and agencies of the Federal Government and the counterparts to such departments and agencies in foreign governments; and

(iii) between the Federal Government and international organizations.

(3) ASSESSMENTS.—In making the assessments under paragraph (2), the Commission should address—

(A) the organization of the export control activities (including licensing and enforcement activities) of the Federal Government relating to the proliferation of weapons of mass destruction;

(B) arrangements for coordinating the funding of United States nonproliferation activities;

(C) existing arrangements governing the flow of information among departments and agencies of the Federal Government responsible for nonproliferation activities;

(D) the effectiveness of the organization and function of interagency groups in ensuring implementation of United States treaty obligations, laws, and policies with respect to nonproliferation;

(E) the administration of sanctions for purposes of nonproliferation, including the measures taken by departments and agencies of the Federal Government to implement, assess, and enhance the effectiveness of such sanctions;

(F) the organization, management, and oversight of United States counterproliferation activities;

(G) the recruitment, training, morale, expertise, retention, and advancement of Federal Government personnel responsible for the nonproliferation functions of the Federal Government, including any problems in such activities;

(H) the role in United States nonproliferation activities of the National Security Council, the Office of Management and Budget, the Office of Science and Technology

Policy, and other offices in the Executive Office of the President having responsibilities for such activities;

(I) the organization of the activities of the Federal Government to verify government-to-government assurances and commitments with respect to nonproliferation, including assurances regarding the future use of commodities exported from the United States; and

(J) the costs and benefits to the United States of increased centralization and of decreased centralization in the administration of the nonproliferation activities of the Federal Government.

(4)[8] RESTRICTIONS.—In carrying out the study under paragraph (1), making the assessments under paragraph (2), and addressing the matters identified in paragraph (3), the Commission shall not review, evaluate, or report on—

(A) United States domestic response capabilities with respect to weapons of mass destruction; or

(B) the adequacy or usefulness of United States laws that provide for the imposition of sanctions on countries or entities that engage in the proliferation of weapons of mass destruction.

(b) RECOMMENDATIONS.—In conducting the study, the Commission shall develop recommendations on means of improving the effectiveness of the organization of the departments and agencies of the Federal Government in meeting the national security interests of the United States with respect to the proliferation of weapons of mass destruction. Such recommendations shall include specific recommendations to eliminate duplications of effort, and other inefficiencies, in and among such departments and agencies.

(c) REPORT.—(1) Not later than 18 months after January 18, 1998,[9] the Commission shall submit to Congress a report containing a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(2) The report shall be submitted in unclassified form, but may include a classified annex.

**SEC. 713.[3] POWERS OF COMMISSION.**

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subtitle.

(b) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of

[8] Sec. 708(c) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (sec. 101(f) of Public Law 105–277; 112 Stat. 2681–390), added para. (4).

[9] Sec. 708(a) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (sec. 101(f) of Public Law 105–277; 112 Stat. 2681–390), struck out "the date of the enactment of this Act" and inserted in lieu thereof "January 18, 1998".

this subtitle. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(2) CLASSIFIED INFORMATION.—A department or agency may furnish the Commission classified information under this subsection. The Commission shall take appropriate actions to safeguard classified information furnished to the Commission under this paragraph.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

**SEC. 714.[3] COMMISSION PERSONNEL MATTERS.**

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States

Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

**SEC. 715.[3] TERMINATION OF COMMISSION.**

The Commission shall terminate 60 days after the date on which the Commission submits its report under section 712(c).

**SEC. 716.[3] DEFINITION.**

For purposes of this subtitle, the term "intelligence community" shall have the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

**SEC. 717.[3] PAYMENT OF COMMISSION EXPENSES.**

The compensation, travel expenses, per diem allowances of members and employees of the Commission, and other expenses of the Commission shall not exceed $1,000,000, and shall be paid[10] out of funds available to the Director of Central Intelligence for the payment of compensation, travel allowances, and per diem allowances, respectively, of employees of the Central Intelligence Agency.

## Subtitle B—Other Matters

**SEC. 721.[11] REPORTS ON ACQUISITION OF TECHNOLOGY RELATING TO WEAPONS OF MASS DESTRUCTION AND ADVANCED CONVENTIONAL MUNITIONS.**

(a) REPORTS.—The Director[12] of Central Intelligence shall submit to Congress a report on—

(1) the acquisition by foreign countries during the preceding 6 months of dual-use and other technology useful for the development or production of weapons of mass destruction (including nuclear weapons, chemical weapons, and biological weapons) and advanced conventional munitions; and

(2) trends in the acquisition of such technology by such countries.

(b)[13] SUBMITTAL DATES.—(1) The report required by subsection (a) shall be submitted each year to the congressional intelligence committees and the congressional leadership on an annual[14] basis on the dates provided in section 507 of the National Security Act of 1947.

(2) In this subsection:

(A) The term "congressional intelligence committees" has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

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[10] Sec. 708(d) of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1999 (sec. 101(f) of Public Law 105–277; 112 Stat. 2681–391), struck out "shall be paid" and inserted in lieu thereof "shall not exceed $1,000,000, and shall be paid".

[11] 50 U.S.C. 2366.

[12] Sec. 811(b)(5)(C)(i) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2383) struck out "Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter, the Director" and inserted in lieu thereof "The Director".

[13] Sec. 811(b)(5)(C)(ii) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2383) inserted a new subsec. (b) in this section, and sec. 811(b)(5)(C)(iii) of that Act redesignated the former subsec. (b) as subsec. (c).

[14] Sec. 361(k) of the Intelligence Authorization Act for Fiscal Year 2004 (Public Law 108–177; 117 Stat. 2599) struck out "a semiannual" and inserted in lieu thereof "an annual".

(B) The term "congressional leadership" means the Speaker and the minority leader of the House of Representatives and the majority leader and the minority leader of the Senate.

(c)[13] FORM OF REPORTS.—Each report[15] submitted under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

**SEC. 722.[16] SEMIANNUAL REPORT ON CONTRIBUTIONS OF FOREIGN PERSONS TO WEAPONS OF MASS DESTRUCTION AND DELIVERY SYSTEMS EFFORTS OF COUNTRIES OF PROLIFERATION CONCERN.**

(a) REPORTS.—The Director of Central Intelligence shall submit to Congress a semiannual report identifying each foreign person that, during the period covered by the report, made a material contribution to the research, development, production, or acquisition by a country of proliferation concern of—

(1) weapons of mass destruction (including nuclear weapons, chemical weapons, or biological weapons); or

(2) ballistic or cruise missile systems.

(b) PERIOD OF SEMIANNUAL REPORTS.—Semiannual reports under subsection (a) shall be submitted as follows:

(1) One semiannual report shall cover the first six months of the calendar year and shall be submitted not later than January 1 of the following year.

(2) The other semiannual report shall cover the second six months of the calendar year and shall be submitted not later than July 1 of the following year.

(c) FORM OF REPORTS.—(1) A report under subsection (a) may be submitted in classified form, in whole or in part, if the Director of Central Intelligence determines that submittal in that form is advisable.

(2) Any portion of a report under subsection (a) that is submitted in classified form shall be accompanied by an unclassified summary of such portion.

(d) DEFINITIONS.—In this section:

(1) The term "foreign person" means any of the following:

(A) A natural person who is not a citizen of the United States.

(B) A corporation, business association, partnership, society, trust, or other nongovernmental entity, organization, or group that is organized under the laws of a foreign country or has its principal place of business in a foreign country.

(C) Any foreign government or foreign governmental entity operating as a business enterprise or in any other capacity.

(D) Any successor, subunit, or subsidiary of any entity described in subparagraph (B) or (C).

(2) The term "country of proliferation concern" means any country identified by the Director of Central Intelligence as

[15] Sec. 811(b)(5)(C)(iv) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2383) struck out "The reports" and inserted in lieu thereof "Each report".

[16] 50 U.S.C. 2369. Sec. 1209(a) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2668) added sec. 722.

having engaged in the acquisition of dual-use and other technology useful for the development or production of weaponsof mass destruction (including nuclear weapons, chemical weapons, and biological weapons) or advanced conventional munitions—

(A) in the most recent report under section 721; or

(B) in any successor report on the acquisition by foreign countries of dual-use and other technology useful for the development or production of weapons of mass destruction.

## q. Defense Against Weapons of Mass Destruction Act of 1996

**Partial text of Public Law 104–201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422 at 2714, approved September 23, 1996; as amended by Public Law 105–261 [Strom Thurmond National Defense Authorization Act for Fiscal Year 1999; H.R. 3616], 112 Stat. 1920, approved October 17, 1998; Public Law 107–314 [Bob Stump National Defense Authorization Act for Fiscal Year 2003; H.R. 4546], 116 Stat. 2458, approved December 2, 2002; Public Law 108–375 [Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005; H.R. 4200], 118 Stat. 1811, approved October 28, 2004; and Public Law 109–163 [National Defense Authorization Act for Fiscal Year 2006; H.R. 1815], 119 Stat. 3136, approved January 6, 2006**

AN ACT To authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

* * * * * * *

## TITLE XIV—DEFENSE AGAINST WEAPONS OF MASS DESTRUCTION


Sec. 1401. Short title.
Sec. 1402. Findings.
Sec. 1403. Definitions.

**Subtitle A—Domestic Preparedness**

Sec. 1411. Response to threats of terrorist use of weapons of mass destruction.
Sec. 1412. Emergency response assistance program. [Repealed—2006]
Sec. 1413. Nuclear, chemical, and biological emergency response.
Sec. 1414. Chemical-biological emergency response team.
Sec. 1415. Testing of preparedness for emergencies involving nuclear, radiological, chemical, and biological weapons.
Sec. 1416. Military assistance to civilian law enforcement officials in emergency situations involving biological or chemical weapons.
Sec. 1417. Rapid response information system.

**Subtitle B—Interdiction of Weapons of Mass Destruction and Related Materials**

Sec. 1421. Procurement of detection equipment United States border security.
Sec. 1422. Extension of coverage of International Emergency Economic Powers Act.
Sec. 1423. Sense of Congress concerning criminal penalties.
Sec. 1424. International border security.

**Subtitle C—Control and Disposition of Weapons of Mass Destruction and Related Materials Threatening the United States**

Sec. 1431. Coverage of weapons-usable fissile materials in Cooperative Threat Reduction programs on elimination or transportation of nuclear weapons.
Sec. 1432. Elimination of plutonium production.

**Subtitle D—Coordination of Policy and Countermeasures Against Proliferation of Weapons of Mass Destruction**

Sec. 1441. National Coordinator on Nonproliferation.

Sec. 1442. National Security Council Committee on Nonproliferation.
Sec. 1443. Comprehensive preparedness program.
Sec. 1444. Termination.

**Subtitle E—Miscellaneous**

Sec. 1451. Sense of Congress concerning contracting policy.
Sec. 1452. Transfers of allocations among Cooperative Threat Reduction programs.
Sec. 1453. Sense of Congress concerning assistance to states of former Soviet Union.
Sec. 1454. Purchase of low-enriched uranium derived from Russian highly enriched uranium.
Sec. 1455. Sense of Congress concerning purchase, packaging, and transportation of fissile materials at risk of theft.

**SEC. 1401.[1] SHORT TITLE.**

This title may be cited as the "Defense Against Weapons of Mass Destruction Act of 1996".

**SEC. 1402.[2] FINDINGS.**

Congress makes the following findings:

(1) Weapons of mass destruction and related materials and technologies are increasingly available from worldwide sources. Technical information relating to such weapons is readily available on the Internet, and raw materials for chemical, biological, and radiological weapons are widely available for legitimate commercial purposes.

(2) The former Soviet Union produced and maintained a vast array of nuclear, biological, and chemical weapons of mass destruction.

(3) Many of the states of the former Soviet Union retain the facilities, materials, and technologies capable of producing additional quantities of weapons of mass destruction.

(4) The disintegration of the former Soviet Union was accompanied by disruptions of command and control systems, deficiencies in accountability for weapons, weapons-related materials and technologies, economic hardships, and significant gaps in border control among the states of the former Soviet Union. The problems of organized crime and corruption in the states of the former Soviet Union increase the potential for proliferation of nuclear, radiological, biological, and chemical weapons and related materials.

(5) The conditions described in paragraph (4) have substantially increased the ability of potentially hostile nations, terrorist groups, and individuals to acquire weapons of mass destruction and related materials and technologies from within the states of the former Soviet Union and from unemployed scientists who worked on those programs.

(6) As a result of such conditions, the capability of potentially hostile nations and terrorist groups to acquire nuclear, radiological, biological, and chemical weapons is greater than at any time in history.

(7) The President has identified North Korea, Iraq, Iran, and Libya as hostile states which already possess some weapons of mass destruction and are developing others.

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[1] 50 U.S.C. 2301 note.

[2] 50 U.S.C. 2301 note. See also section on Cooperative Threat Reduction programs, sec. 3 of this volume, beginning at page 45.

(8) The acquisition or the development and use of weapons of mass destruction is well within the capability of many extremist and terrorist movements, acting independently or as proxies for foreign states.

(9) Foreign states can transfer weapons to or otherwise aid extremist and terrorist movements indirectly and with plausible deniability.

(10) Terrorist groups have already conducted chemical attacks against civilian targets in the United States and Japan, and a radiological attack in Russia.

(11) The potential for the national security of the United States to be threatened by nuclear, radiological, chemical, or biological terrorism must be taken seriously.

(12) There is a significant and growing threat of attack by weapons of mass destruction on targets that are not military targets in the usual sense of the term.

(13) Concomitantly, the threat posed to the citizens of the United States by nuclear, radiological, biological, and chemical weapons delivered by unconventional means is significant and growing.

(14) Mass terror may result from terrorist incidents involving nuclear, radiological, biological, or chemical materials.

(15) Facilities required for production of radiological, biological, and chemical weapons are much smaller and harder to detect than nuclear weapons facilities, and biological and chemical weapons can be deployed by alternative delivery means other than long-range ballistic missiles.

(16) Covert or unconventional means of delivery of nuclear, radiological, biological, and chemical weapons include cargo ships, passenger aircraft, commercial and private vehicles and vessels, and commercial cargo shipments routed through multiple destinations.

(17) Traditional arms control efforts assume large state efforts with detectable manufacturing programs and weapons production programs, but are ineffective in monitoring and controlling smaller, though potentially more dangerous, unconventional proliferation efforts.

(18) Conventional counterproliferation efforts would do little to detect or prevent the rapid development of a capability to suddenly manufacture several hundred chemical or biological weapons with nothing but commercial supplies and equipment.

(19) The United States lacks adequate planning and countermeasures to address the threat of nuclear, radiological, biological, and chemical terrorism.

(20) The Department of Energy has established a Nuclear Emergency Response Team which is available in case of nuclear or radiological emergencies, but no comparable units exist to deal with emergencies involving biological or chemical weapons or related materials.

(21) State and local emergency response personnel are not adequately prepared or trained for incidents involving nuclear, radiological, biological, or chemical materials.

(22) Exercises of the Federal, State, and local response to nuclear, radiological, biological, or chemical terrorism have revealed serious deficiencies in preparedness and severe problems of coordination.

(23) The development of, and allocation of responsibilities for, effective countermeasures to nuclear, radiological, biological, or chemical terrorism in the United States requires well-coordinated participation of many Federal agencies, and careful planning by the Federal Government and State and local governments.

(24) Training and exercises can significantly improve the preparedness of State and local emergency response personnel for emergencies involving nuclear, radiological, biological, or chemical weapons or related materials.

(25) Sharing of the expertise and capabilities of the Department of Defense, which traditionally has provided assistance to Federal, State, and local officials in neutralizing, dismantling, and disposing of explosive ordnance, as well as radiological, biological, and chemical materials, can be a vital contribution to the development and deployment of countermeasures against nuclear, biological, and chemical weapons of mass destruction.

(26) The United States lacks effective policy coordination regarding the threat posed by the proliferation of weapons of mass destruction.

**SEC. 1403.[3] DEFINITIONS.**

In this title:

(1) The term "weapon of mass destruction" means any weapon or device that is intended, or has the capability, to cause death or serious bodily injury to a significant number of people through the release, dissemination, or impact of—

(A) toxic or poisonous chemicals or their precursors;

(B) a disease organism; or

(C) radiation or radioactivity.

(2) The term "independent states of the former Soviet Union" has the meaning given that term in section 3 of the FREEDOM Support Act (22 U.S.C. 5801).

(3) The term "highly enriched uranium" means uranium enriched to 20 percent or more in the isotope U–235.

## Subtitle A—Domestic Preparedness

**SEC. 1411.[4] RESPONSE TO THREATS OF TERRORIST USE OF WEAPONS OF MASS DESTRUCTION.**

(a) ENHANCED RESPONSE CAPABILITY.—In light of the potential for terrorist use of weapons of mass destruction against the United States, the President shall take immediate action—

(1) to enhance the capability of the Federal Government to prevent and respond to terrorist incidents involving weapons of mass destruction; and

(2) to provide enhanced support to improve the capabilities of State and local emergency response agencies to prevent and

[3] 50 U.S.C. 2302.
[4] 50 U.S.C. 2311.

respond to such incidents at both the national and the local level.

(b) REPORT REQUIRED.—Not later than January 31, 1997, the President shall transmit to Congress a report containing—

(1) an assessment of the capabilities of the Federal Government to prevent and respond to terrorist incidents involving weapons of mass destruction and to support State and local prevention and response efforts;

(2) requirements for improvements in those capabilities; and

(3) the measures that should be taken to achieve such improvements, including additional resources and legislative authorities that would be required.

**SEC. 1412.**[5] * * * [Repealed—2006]

**SEC. 1413.**[6] **NUCLEAR, CHEMICAL, AND BIOLOGICAL EMERGENCY RESPONSE.**

(a)[7] DEPARTMENT OF DEFENSE.—The Assistant Secretary of Defense for Homeland Defense is responsible for the coordination of Department of Defense assistance to Federal, State, and local officials in responding to threats involving nuclear, radiological, biological, chemical weapons, or high-yield explosives or related materials or technologies, including assistance in identifying, neutralizing, dismantling, and disposing of nuclear, radiological, biological, chemical weapons, and high-yield explosives and related materials and technologies.

(b) DEPARTMENT OF ENERGY.—The Secretary of Energy shall designate an official within the Department of Energy as the executive agent for—

(1) the coordination of Department of Energy assistance to Federal, State, and local officials in responding to threats involving nuclear, chemical, and biological weapons or related materials or technologies, including assistance in identifying, neutralizing, dismantling, and disposing of nuclear weapons and related materials and technologies; and

(2) the coordination of Department of Energy assistance to the Department of Defense in carrying out that department's responsibilities under subsection (a).

(c) FUNDING.—Of the total amount authorized to be appropriated under section 301, $15,000,000 is available for providing assistance described in subsection (a).

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[5] Formerly at 50 U.S.C. 2312. Sec. 1034 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3429) repealed sec. 1412, which had required the Secretary of Defense to "carry out a program to provide civilian personnel of Federal, State, and local agencies with training and expert advice regarding emergency responses to a use or threatened use of a weapon of mass destruction or related materials.".

Previously, sec. 1513 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1273) had amended this section by adding a new subsec. (e)(5).

[6] 50 U.S.C. 2313.

[7] Sec. 1031 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3428) amended and restated subsec. (a). It previously read as follows:

"(a) DEPARTMENT OF DEFENSE.—The Secretary of Defense shall designate an official within the Department of Defense as the executive agent for—

"(1) the coordination of Department of Defense assistance to Federal, State, and local officials in responding to threats involving biological or chemical weapons or related materials or technologies, including assistance in identifying, neutralizing, dismantling, and disposing of biological and chemical weapons and related materials and technologies; and

"(2) the coordination of Department of Defense assistance to the Department of Energy in carrying out that department's responsibilities under subsection (b).".

**SEC. 1414.[8] CHEMICAL, BIOLOGICAL, RADIOLOGICAL, NUCLEAR, AND HIGH-YIELD EXPLOSIVES RESPONSE TEAM.**

(a) DEPARTMENT OF DEFENSE RAPID RESPONSE TEAM.—The Secretary of Defense shall develop and maintain at least one domestic terrorism rapid response team composed of members of the Armed Forces and employees of the Department of Defense who are capable of aiding Federal, State, and local officials in the detection, neutralization, containment, dismantlement, and disposal of weapons of mass destruction containing chemical, biological, radiological, nuclear, and high-yield explosives.[9]

(b) ADDITION TO FEDERAL RESPONSE PLANS[10].—The Secretary of Homeland Security shall incorporate into the National Response Plan prepared pursuant to section 502(6) of the Homeland Security Act of 2002 (6 U.S.C. 312(6)), other existing Federal emergency response plans, and[11] programs prepared under section 611(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(b)) guidance on the use and deployment of the rapid response teams established under this section to respond to emergencies involving weapons of mass destruction. The Secretary of Homeland Security[12] shall carry out this subsection in coordination[13] with the Secretary of Defense and the heads of other Federal agencies involved with the emergency response plans.

**SEC. 1415.[14] TESTING OF PREPAREDNESS FOR EMERGENCIES INVOLVING NUCLEAR, RADIOLOGICAL, CHEMICAL, AND BIOLOGICAL WEAPONS.**

(a) EMERGENCIES INVOLVING NUCLEAR, RADIOLOGICAL, CHEMICAL, OR[15] BIOLOGICAL WEAPONS.—(1) The Secretary of Homeland Security[16] shall develop and carry out a program for testing and improving the responses of Federal, State, and local agencies to

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[8] 50 U.S.C. 2314. Sec. 1033(1) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3429) struck out "**CHEMICAL-BIOLOGICAL EMERGENCY RESPONSE TEAM.**" and inserted in lieu thereof "**CHEMICAL, BIOLOGICAL, RADIOLOGICAL, NUCLEAR, AND HIGH-YIELD EXPLOSIVES RESPONSE TEAM.**" in the section catchline.

[9] Sec. 1033(2) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3429) struck out "or related materials" and inserted in lieu thereof "radiological, nuclear, and high-yield explosives".

[10] Sec. 1033(3)(A) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3429) struck out "PLAN" and inserted in lieu thereof "PLANS" in the subsec. catchline.

[11] Sec. 1033(3)(B) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3429) struck out "Not later than December 31, 1997, the Director of the Federal Emergency Management Agency shall develop and incorporate into existing Federal emergency response plans and" and inserted in lieu thereof "The Secretary of Homeland Security shall incorporate into the National Response Plan prepared pursuant to section 502(6) of the Homeland Security Act of 2002 (6 U.S.C. 312(6)), other existing Federal emergency response plans, and".

[12] Sec. 1033(3)(C)(i) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3429) struck out "Director" and inserted in lieu thereof "Secretary of Homeland Security".

[13] Sec. 1033(3)(C)(ii) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3429) struck out "consultation" and inserted in lieu thereof "coordination".

[14] 50 U.S.C. 2315.

[15] Sec. 1032(a)(1) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3428) struck out "CHEMICAL OR" ("CHEMICAL OR" as actually enrolled) and inserted in lieu thereof "NUCLEAR, RADIOLOGICAL, CHEMICAL, OR".

[16] Sec. 1032(a)(2)(A) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3428) struck out "Secretary of Defense" and inserted in lieu thereof "Secretary of Homeland Security".

emergencies involving nuclear, radiological, biological, and[17] chemical weapons and related materials.

(2) The program shall include exercises to be carried out in accordance with sections 102(c) and 430(c)(1) of the Homeland Security Act of 2002 (6 U.S.C. 112(c), 238(c)(1)).[18]

(3) In developing and carrying out the program, the Secretary shall coordinate with the Secretary of Defense,[19] the Director of the Federal Bureau of Investigation,[19] the Secretary of Energy, and the heads of any other Federal, State, and local government agencies that have an expertise or responsibilities relevant to emergencies described in paragraph (1).

(b)[20] ANNUAL REVISIONS OF PROGRAMS.—The Secretary of Homeland Security shall revise the program developed under subsection

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[17] Sec. 1032(a)(2)(B) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3428) struck out "biological weapons and related materials and emergencies involving" and inserted in lieu thereof "nuclear, radiological, biological, and".

[18] Sec. 1032(a)(3) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3428) struck out "during each of fiscal years 1997 through 2013" and inserted in lieu thereof "in accordance with sections 102(c) and 430(c)(1) of the Homeland Security Act of 2002 (6 U.S.C. 112(c), 238(c)(1))".

Previously, sec. 3154(a)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2738) struck out "of five successive fiscal years beginning with fiscal year 1997" and inserted in lieu thereof "of fiscal years 1997 through 2013". Sec. 3154(b) of that Act (50 U.S.C. 2315 note) provided the following:

"(b) CONSTRUCTION OF EXTENSION WITH DESIGNATION OF ATTORNEY GENERAL AS LEAD OFFICIAL.—The amendments made by subsection (a) may not be construed as modifying the designation of the President titled 'Designation of the Attorney General as the Lead Official for the Emergency Response Assistance Program Under Sections 1412 and 1415 of the National Defense Authorization Act for Fiscal Year 1997', dated April 6, 2000, designating the Attorney General to assume programmatic and funding responsibilities for the Emergency Response Assistance Program under sections 1412 and 1415 of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of the National Defense Authorization Act for Fiscal Year 1997).".

[19] Sec. 1032(a)(4)(A) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3428) inserted "the Secretary of Defense," before "the Director of the Federal Bureau of Investigation". Sec. 1032(a)(4)(B) of that Act struck out "the Director of the Federal Emergency Management Agency," after "the Director of the Federal Bureau of Investigation".

[20] Sec. 1032(b) and (c)(1) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3428) struck out former subsec. (b) and redesignated subsec. (c) as subsec. (b). Former subsec. (b), as amended, had read as follows:

"(b) EMERGENCIES INVOLVING NUCLEAR AND RADIOLOGICAL WEAPONS.—(1) The Secretary of Energy shall develop and carry out a program for testing and improving the responses of Federal, State, and local agencies to emergencies involving nuclear and radiological weapons and related materials.

"(2) The program shall include exercises to be carried out during each of fiscal years 1997 through 2013.

"(3) In developing and carrying out the program, the Secretary shall coordinate with the Director of the Federal Bureau of Investigation, the Director of the Federal Emergency Management Agency, the Secretary of Defense, and the heads of any other Federal, State, and local government agencies that have an expertise or responsibilities relevant to emergencies described in paragraph (1).".

Sec. 1032(d) of that Act struck out subsecs. (d) and (e), which had read as follows:

"(d) OPTION TO TRANSFER RESPONSIBILITY.—(1) The President may designate the head of an agency outside the Department of Defense to assume the responsibility for carrying out the program developed under subsection (a) beginning on or after October 1, 1999, and relieve the Secretary of Defense of that responsibility upon the assumption of the responsibility by the designated official.

"(2) The President may designate the head of an agency outside the Department of Energy to assume the responsibility for carrying out the program developed under subsection (b) beginning on or after October 1, 1999, and relieve the Secretary of Energy of that responsibility upon the assumption of the responsibility by the designated official.

"(e) FUNDING.—Of the total amount authorized to be appropriated under section 301, $15,000,000 is available for the development and execution of the programs required by this section, including the participation of State and local agencies in exercises carried out under the programs.".

(a)[21] not later than June 1 in each fiscal year covered by the program. The revisions shall include adjustments that the Secretary[22] determines necessary or appropriate on the basis of the lessons learned from the exercise or exercises carried out under the program in the fiscal year, including lessons learned regarding coordination problems and equipment deficiencies.

**SEC. 1416. MILITARY ASSISTANCE TO CIVILIAN LAW ENFORCEMENT OFFICIALS IN EMERGENCY SITUATIONS INVOLVING BIOLOGICAL OR CHEMICAL WEAPONS.**

(a) ASSISTANCE AUTHORIZED.—(1) Chapter 18 of title 10, United States Code, is amended by adding at the end the following new section: * * *[23]

(b) CONFORMING AMENDMENT TO CONDITION FOR PROVIDING EQUIPMENT AND FACILITIES.—Section 372(b)(1) of title 10, United States Code, is amended by adding at the end the following new sentence: * * *[24]

(c) CONFORMING AMENDMENTS RELATING TO AUTHORITY TO REQUEST ASSISTANCE.—(1)(A) Chapter 10 of title 18, United States Code, is amended by inserting after section 175 the following new section: * * *[25]

(2)(A) The chapter 133B of title 18, United States Code, that relates to terrorism is amended by inserting after section 2332c the following new section: * * *[26]

(d)[27] CIVILIAN EXPERTISE.—The President shall take reasonable measures to reduce the reliance of civilian law enforcement officials on Department of Defense resources to counter the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States. The measures shall include—

(1) actions to increase civilian law enforcement expertise to counter such a threat; and

(2) actions to improve coordination between civilian law enforcement officials and other civilian sources of expertise, within and outside the Federal Government, to counter such a threat.

(e)[27] REPORTS.—The President shall submit to Congress the following reports:

(1) Not later than 90 days after the date of the enactment of this Act, a report describing the respective policy functions and operational roles of Federal agencies in countering the

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[21] Sec. 1032(c)(2)(A) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3428) struck out "The official responsible for carrying out a program developed under subsection (a) or (b) shall revise the program" and inserted in lieu thereof "The Secretary of Homeland Security shall revise the program developed under subsection (a)".

[22] Sec. 1032(c)(2)(B) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3428) struck out "the official" and inserted in lieu thereof "the Secretary".

[23] Sec. 1416 added a new sec. 382 to 18 U.S.C., relating to [domestic] emergency situations involving chemical or biological weapons of mass destruction. For text, see *Legislation on Foreign Relations Through 2005*, vol. I–B.

[24] For text, see *Legislation on Foreign Relations Through 2005*, vol. I–B.

[25] Subsec. (c)(1)(A) added a new sec. 175a to 10 U.S.C., relating to requests for military assistance to enforce prohibition in certain [domestic] emergencies involving a biological weapon of mass destruction.

[26] Subsec. (c)(2)(A) added a new sec. 2332d to 18 U.S.C. relating to requests for military assistance to enforce prohibition in certain [domestic] emergencies involving a chemical weapon of mass destruction.

[27] 50 U.S.C. 2316.

threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States.

(2) Not later than one year after such date, a report describing—

(A) the actions planned to be taken to carry out subsection (d); and

(B) the costs of such actions.

(3) Not later than three years after such date, a report updating the information provided in the reports submitted pursuant to paragraphs (1) and (2), including the measures taken pursuant to subsection (d).

**SEC. 1417.[28] RAPID RESPONSE INFORMATION SYSTEM.**

(a) INVENTORY OF RAPID RESPONSE ASSETS.—(1) The head of each Federal Response Plan agency shall develop and maintain an inventory of physical equipment and assets under the jurisdiction of that agency that could be made available to aid State and local officials in search and rescue and other disaster management and mitigation efforts associated with an emergency involving weapons of mass destruction. The agency head shall submit a copy of the inventory, and any updates of the inventory, to the Director of the Federal Emergency Management Agency for inclusion in the master inventory required under subsection (b).

(2) Each inventory shall include a separate listing of any equipment that is excess to the needs of that agency and could be considered for disposal as excess or surplus property for use for response and training with regard to emergencies involving weapons of mass destruction.

(b) MASTER INVENTORY.—The Director of the Federal Emergency Management Agency shall compile and maintain a comprehensive listing of all inventories prepared under subsection (a). The first such master list shall be completed not later than December 31, 1997, and shall be updated annually thereafter.

(c) ADDITION TO FEDERAL RESPONSE PLAN.—Not later than December 31, 1997, the Director of the Federal Emergency Management Agency shall develop and incorporate into existing Federal emergency response plans and programs prepared under section 611(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(b)) guidance on accessing and using the physical equipment and assets included in the master list developed under subsection to respond to emergencies involving weapons of mass destruction.

(d) DATABASE ON CHEMICAL AND BIOLOGICAL MATERIALS.—The Director of the Federal Emergency Management Agency, in consultation with the Secretary of Defense, shall prepare a database on chemical and biological agents and munitions characteristics and safety precautions for civilian use. The initial design and compilation of the database shall be completed not later than December 31, 1997.

(e) ACCESS TO INVENTORY AND DATABASE.—The Director of the Federal Emergency Management Agency shall design and maintain a system to give Federal, State, and local officials access to the inventory listing and database maintained under this section in the

[28] 50 U.S.C. 2317.

event of an emergency involving weapons of mass destruction or to prepare and train to respond to such an emergency. The system shall include a secure but accessible emergency response hotline to access information and request assistance.

## Subtitle B—Interdiction of Weapons of Mass Destruction and Related Materials

**SEC. 1421.[29] PROCUREMENT OF DETECTION EQUIPMENT UNITED STATES BORDER SECURITY.**

Of the amount authorized to be appropriated by section 301, $15,000,000 is available for the procurement of—

(1) equipment capable of detecting the movement of weapons of mass destruction and related materials into the United States;

(2) equipment capable of interdicting the movement of weapons of mass destruction and related materials into the United States; and

(3) materials and technologies related to use of equipment described in paragraph (1) or (2).

**SEC. 1422.[30] EXTENSION OF COVERAGE OF INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.**

Section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) is amended— * * *

**SEC. 1423.[31] SENSE OF CONGRESS CONCERNING CRIMINAL PENALTIES.**

(a) SENSE OF CONGRESS CONCERNING INADEQUACY OF SENTENCING GUIDELINES.—It is the sense of Congress that the sentencing guidelines prescribed by the United States Sentencing Commission for the offenses of importation, attempted importation, exportation, and attempted exportation of nuclear, biological, and chemical weapons materials constitute inadequate punishment for such offenses.

(b) URGING OF REVISON[32] TO GUIDELINES.—Congress urges the United States Sentencing Commission to revise the relevant sentencing guidelines to provide for increased penalties for offenses relating to importation, attempted importation, exportation, and attempted exportation of nuclear, biological, or chemical weapons or related materials or technologies under the following provisions of law:

(1) Section 11 of the Export Administration Act of 1979 (50 U.S.C. App. 2410).

(2) Sections 38 and 40 of the Arms Export Control Act (22 U.S.C. 2778 and 2780).

(3) The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

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[29] 50 U.S.C. 2331.

[30] For text of the International Emergency Economic Powers Act, see *Legislation on Foreign Relations Through 2005*, vol. III.

[31] 50 U.S.C. 2332.

[32] As enrolled.

(4) Section 309(c) of the Nuclear Non-Proliferation Act of 1978 (42 U.S.C. 2139a(c)).[33]

**SEC. 1424.[34] INTERNATIONAL BORDER SECURITY.**

(a) SECRETARY OF DEFENSE RESPONSIBILITY.—The Secretary of Defense, in consultation and cooperation with the Commissioner of Customs, shall carry out programs for assisting customs officials and border guard officials in the independent states of the former Soviet Union, the Baltic states, and other countries of Eastern Europe in preventing unauthorized transfer and transportation of nuclear, biological, and chemical weapons and related materials. Training, expert advice, maintenance of equipment, loan of equipment, and audits may be provided under or in connection with the programs.

(b)[35] OTHER COUNTRIES.—The Secretary of Defense may carry out programs under subsection (a) in a country other than a country specified in that subsection if the Secretary determines that there exists in that country a significant threat of the unauthorized transfer and transportation of nuclear, biological, or chemical weapons or related materials.

(c) ASSISTANCE TO STATES OF THE FORMER SOVIET UNION.—Assistance under programs referred to in subsection (a) may (notwithstanding any provision of law prohibiting the extension of foreign assistance to any of the newly independent states of the former Soviet Union) be extended to include an independent state of the former Soviet Union if the President certifies to Congress that it is in the national interest of the United States to extend assistance under this section to that state.

## Subtitle C—Control and Disposition of Weapons of Mass Destruction and Related Materials Threatening the United States

**SEC. 1431. COVERAGE OF WEAPONS-USABLE FISSILE MATERIALS IN COOPERATIVE THREAT REDUCTION PROGRAMS ON ELIMINATION OR TRANSPORTATION OF NUCLEAR WEAPONS.**

Section 1201(b)(1) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 469; 22 U.S.C. 5955 note) is amended * * *

**SEC. 1432.[36] ELIMINATION OF PLUTONIUM PRODUCTION.**

(a) REPLACEMENT PROGRAM.—The Secretary of Energy, in consultation with the Secretary of Defense, shall develop a cooperative program with the Government of Russia to eliminate the production of weapons grade plutonium by modifying or replacing the reactor cores at Tomsk–7 and Krasnoyarsk–26 with reactor cores

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[33] Sec. 1069(c)(1) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2136) struck out "(22 U.S.C. 2156a(c))" and inserted in lieu thereof "(42 U.S.C. 2139a(c))".

[34] 50 U.S.C. 2333.

[35] Sec. 1211(a) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2087) amended and restated subsec. (b). Subsec. (b) previously read as follows:

"(b) FUNDING.—Of the total amount authorized to be appropriated by section 301, $15,000,000 is available for carrying out the programs referred to in subsection (a).".

[36] 50 U.S.C. 2341.

that are less suitable for the production of weapons-grade plutonium.

(b) PROGRAM REQUIREMENTS.—(1) The program shall be designed to achieve completion of the modifications or replacements of the reactor cores within three years after the modification or replacement activities under the program are begun.

(2) The plan for the program shall—

(A) specify—

(i) successive steps for the modification or replacement of the reactor cores; and

(ii) clearly defined milestones to be achieved; and

(B) include estimates of the costs of the program.

(c) SUBMISSION OF PROGRAM PLAN TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress—

(1) a plan for the program under subsection (a);

(2) an estimate of the United States funding that is necessary for carrying out the activities under the program for each fiscal year covered by the program; and

(3) a comparison of the benefits of the program with the benefits of other nonproliferation programs.

## Subtitle D—Coordination of Policy and Countermeasures Against Proliferation of Weapons of Mass Destruction

**SEC. 1441.[37] NATIONAL COORDINATOR ON NONPROLIFERATION.**

(a) DESIGNATION OF POSITION.—The President shall designate an individual to serve in the Executive Office of the President as the National Coordinator for Nonproliferation Matters.

(b) DUTIES.—The Coordinator, under the direction of the National Security Council, shall advise and assist the President by—

(1) advising the President on nonproliferation of weapons of mass destruction, including issues related to terrorism, arms control, and international organized crime;

(2) chairing the Committee on Nonproliferation of the National Security Council;[38] and

(3) taking such actions as are necessary to ensure that there is appropriate emphasis in, cooperation on, and coordination of, nonproliferation research efforts of the United States, including activities of Federal agencies as well as activities of contractors funded by the Federal Government.

(c) ALLOCATION OF FUNDS.—Of the total amount authorized to be appropriated under section 301, $2,000,000 is available to the Department of Defense for carrying out research referred to in subsection (b)(3).

[37] 50 U.S.C. 2351.

[38] Sec. 1069(c)(2) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2136) struck out "established under section 1342" and inserted in lieu thereof "of the National Security Council".

**SEC. 1442.[39] NATIONAL SECURITY COUNCIL COMMITTEE ON NONPROLIFERATION.**

(a) ESTABLISHMENT.—The Committee on Nonproliferation (in this section referred to as the "Committee") is established as a committee of the National Security Council.

(b) MEMBERSHIP.—(1) The Committee shall be composed of representatives of the following:

(A) The Secretary of State.

(B) The Secretary of Defense.

(C) The Director of Central Intelligence.

(D) The Attorney General.

(E) The Secretary of Energy.

(F) The Administrator of the Federal Emergency Management Agency.

(G) The Secretary of the Treasury.

(H) The Secretary of Commerce.

(I) Such other members as the President may designate.

(2) The National Coordinator for Nonproliferation Matters shall chair the Committee on Nonproliferation.

(c) RESPONSIBILITIES.—The Committee has the following responsibilities:

(1) To review and coordinate Federal programs, policies, and directives relating to the proliferation of weapons of mass destruction and related materials and technologies, including matters relating to terrorism and international organized crime.

(2) To make recommendations through the National Security Council to the President regarding the following:

(A) Integrated national policies for countering the threats posed by weapons of mass destruction.

(B) Options for integrating Federal agency budgets for countering such threats.

(C) Means to ensure that Federal, State, and local governments have adequate capabilities to manage crises involving nuclear, radiological, biological, or chemical weapons or related materials or technologies, and to manage the consequences of a use of such weapon or related materials or technologies, and that use of those capabilities is coordinated.

(D) Means to ensure appropriate cooperation on, and coordination of, the following:

(i) Preventing the smuggling of weapons of mass destruction and related materials and technologies.

(ii) Promoting domestic and international law enforcement efforts against proliferation-related efforts.

(iii) Countering the involvement of organized crime groups in proliferation-related activities.

(iv) Safeguarding weapons of mass destruction materials and related technologies.

(v) Improving coordination and cooperation among intelligence activities, law enforcement, and the Departments of Defense, State, Commerce, and Energy

[39] 50 U.S.C. 2352.

in support of nonproliferation and counterproliferation efforts.

(vi) Improving export controls over materials and technologies that can contribute to the acquisition of weapons of mass destruction.

(vii) Reducing proliferation of weapons of mass destruction and related materials and technologies.

**SEC. 1443.[40] COMPREHENSIVE PREPAREDNESS PROGRAM.**

(a) PROGRAM REQUIRED.—The President, acting through the Committee on Nonproliferation established under section 1442, shall develop a comprehensive program for carrying out this title.

(b) CONTENT OF PROGRAM.—The program set forth in the report shall include specific plans as follows:

(1) Plans for countering proliferation of weapons of mass destruction and related materials and technologies.

(2) Plans for training and equipping Federal, State, and local officials for managing a crisis involving a use or threatened use of a weapon of mass destruction, including the consequences of the use of such a weapon.

(3) Plans for providing for regular sharing of information among intelligence, law enforcement, and customs agencies.

(4) Plans for training and equipping law enforcement units, customs services, and border security personnel to counter the smuggling of weapons of mass destruction and related materials and technologies.

(5) Plans for establishing appropriate centers for analyzing seized nuclear, radiological, biological, and chemical weapons, and related materials and technologies.

(6) Plans for establishing in the United States appropriate legal controls and authorities relating to the exporting of nuclear, radiological, biological, and chemical weapons, and related materials and technologies.

(7) Plans for encouraging and assisting governments of foreign countries to implement and enforce laws that set forth appropriate penalties for offenses regarding the smuggling of weapons of mass destruction and related materials and technologies.

(8) Plans for building the confidence of the United States and Russia in each other's controls over United States and Russian nuclear weapons and fissile materials, including plans for verifying the dismantlement of nuclear weapons.

(9) Plans for reducing United States and Russian stockpiles of excess plutonium, reflecting—

(A) consideration of the desirability and feasibility of a United States-Russian agreement governing fissile material disposition and the specific technologies and approaches to be used for disposition of excess plutonium; and

(B) an assessment of the options for United States cooperation with Russia in the disposition of Russian plutonium.

[40] 50 U.S.C. 2353.

(10) Plans for studying the merits and costs of establishing a global network of means for detecting and responding to terroristic or other criminal use of biological agents against people or other forms of life in the United States or any foreign country.

(c) REPORT.—(1) At the same time that the President submits the budget for fiscal year 1998 to Congress pursuant to section 1105(a) of title 31, United States Code, the President shall submit to Congress a report that sets forth the comprehensive program developed under subsection (a).

(2) The report shall include the following:

(A) The specific plans for the program that are required under subsection (b).

(B) Estimates of the funds necessary, by agency or department, for carrying out such plans in fiscal year 1998 and the following five fiscal years.

(3) The report shall be in an unclassified form. If there is a classified version of the report, the President shall submit the classified version at the same time.

**SEC. 1444.[41] TERMINATION.**

After September 30, 1999, the President—

(1) is not required to maintain a National Coordinator for Nonproliferation Matters under section 1441;[42] and

(2) may terminate the Committee on Nonproliferation established under section 1442.[42]

## Subtitle E—Miscellaneous

**SEC. 1451.[43] SENSE OF CONGRESS CONCERNING CONTRACTING POLICY.**

It is the sense of Congress that the Secretary of Defense, the Secretary of Energy, the Secretary of the Treasury, and the Secretary of State, to the extent authorized by law, should—

(1) contract directly with suppliers in independent states of the former Soviet Union when such action would—

(A) result in significant savings of the programs referred to in subtitle C; and

(B) substantially expedite completion of the programs referred to in subtitle C; and

(2) seek means to use innovative contracting approaches to avoid delay and increase the effectiveness of such programs and of the exercise of such authorities.

**SEC. 1452.[44] TRANSFERS OF ALLOCATIONS AMONG COOPERATIVE THREAT REDUCTION PROGRAMS.**

Congress finds that—

(1) the various Cooperative Threat Reduction programs are being carried out at different rates in the various countries covered by such programs; and

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[41] 50 U.S.C. 2354.

[42] Sec. 1069(c)(3) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2136) struck out "1341" and "1342" and inserted in lieu thereof, respectively, "1441" and "1442".

[43] 50 U.S.C. 2361.

[44] 50 U.S.C. 2362.

(2) it is necessary to authorize transfers of funding allocations among the various programs in order to maximize the effectiveness of United States efforts under such programs.

**SEC. 1453.[45] SENSE OF CONGRESS CONCERNING ASSISTANCE TO STATES OF FORMER SOVIET UNION.**

It is the sense of Congress that—

(1) the Cooperative Threat Reduction programs and other United States programs authorized in title XIV of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 22 U.S.C. 5901 et seq.)[46] should be expanded by offering assistance under those programs to other independent states of the former Soviet Union in addition to Russia, Ukraine, Kazakstan, and Belarus; and

(2) the President should offer assistance to additional independent states of the former Soviet Union in each case in which the participation of such states would benefit national security interests of the United States by improving border controls and safeguards over materials and technology associated with weapons of mass destruction.

**SEC. 1454.[47] PURCHASE OF LOW-ENRICHED URANIUM DERIVED FROM RUSSIAN HIGHLY ENRICHED URANIUM.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that the allies of the United States and other nations should participate in efforts to ensure that stockpiles of weapons-grade nuclear material are reduced.

(b) ACTIONS BY THE SECRETARY OF STATE.—Congress urges the Secretary of State to encourage, in consultation with the Secretary of Energy, other countries to purchase low-enriched uranium that is derived from highly enriched uranium extracted from Russian nuclear weapons.

**SEC. 1455.[48] SENSE OF CONGRESS CONCERNING PURCHASE, PACKAGING, AND TRANSPORTATION OF FISSILE MATERIALS AT RISK OF THEFT.**

It is the sense of Congress that—

(1) the Secretary of Defense, the Secretary of Energy, the Secretary of the Treasury, and the Secretary of State should purchase, package, and transport to secure locations weapons-grade nuclear materials from a stockpile of such materials if such officials determine that—

(A) there is a significant risk of theft of such materials; and

(B) there is no reasonable and economically feasible alternative for securing such materials; and

(2) if it is necessary to do so in order to secure the materials, the materials should be imported into the United States, subject to the laws and regulations that are applicable to the importation of such materials into the United States.

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[45] 50 U.S.C. 2363.

[46] Sec. 1069(c)(4) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2136) struck out "the National Defense Authorization Act for Fiscal Years 1993 and 1994" and inserted in lieu thereof "title XIV of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 22 U.S.C. 5901 et seq.)".

[47] 50 U.S.C. 2364.

[48] 50 U.S.C. 2365.

## r. Nuclear Proliferation Prevention Act of 1994

**Partial text of Public Law 103–236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382 at 507, approved April 30, 1994; as amended by Public Law 104–164 [H.R. 3121], 110 Stat. 1421, approved July 21, 1996**

### TITLE VIII—NUCLEAR PROLIFERATION PREVENTION ACT [1]

**SEC. 801. SHORT TITLE.**

This title may be cited as the "Nuclear Proliferation Prevention Act of 1994".

### PART A—REPORTING ON NUCLEAR EXPORTS [2]

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### PART B—SANCTIONS FOR NUCLEAR PROLIFERATION [3]

**SEC. 821.[4] IMPOSITION OF PROCUREMENT SANCTION ON PERSONS ENGAGING IN EXPORT ACTIVITIES THAT CONTRIBUTE TO PROLIFERATION.**

(a) DETERMINATION BY THE PRESIDENT.—

(1) IN GENERAL.—Except as provided in subsection (b)(2), the President shall impose the sanction described in subsection (c) if the President determines in writing that, on or after the effective date of this part, a foreign person or a United States person has materially and with requisite knowledge contributed, through the export from the United States or any other country of any goods or technology (as defined in section 830(2)), to the efforts by any individual, group, or non-nuclear-weapon state to acquire unsafeguarded special nuclear material or to use, develop, produce, stockpile, or otherwise acquire any nuclear explosive device.

(2) PERSONS AGAINST WHICH THE SANCTION IS TO BE IMPOSED.—The sanction shall be imposed pursuant to paragraph (1) on—

(A) the foreign person or United States person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person or United States person;

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[1] 22 U.S.C. 3201 note.

[2] Part A amends the Nuclear Non-Proliferation Act of 1978.

[3] Sec. 831 of this Act provided:

**"SEC. 831. EFFECTIVE DATE.**

"The provisions of this part, and the amendments made by this part, shall take effect 60 days after the date of the enactment of this Act.".

[4] 22 U.S.C. 6301. In a memorandum dated March 5, 2007 (72 F.R. 11283; March 13, 2007), the President delegated his functions under sec. 821 to the Secretary of State, except the function under sec. 821(c)(2)(A) which he delegated to the Secretary of Defense.

(C) any foreign person or United States person that is a parent or subsidiary of that person if that parent or subsidiary materially and with requisite knowledge assisted in the activities which were the basis of that determination; and

(D) any foreign person or United States person that is an affiliate of that person if that affiliate materially and with requisite knowledge assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that person.

(3) OTHER SANCTIONS AVAILABLE.—The sanction which is required to be imposed for activities described in this subsection is in addition to any other sanction which may be imposed for the same activities under any other provision of law.

(4) DEFINITION.—For purposes of this subsection, the term "requisite knowledge" means situations in which a person "knows", as "knowing" is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd–2).

(b) CONSULTATION WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

(1) CONSULTATIONS.—If the President makes a determination described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of the sanction pursuant to this section.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of the sanction pursuant to this section for up to 90 days. Following these consultations, the President shall impose the sanction unless the President determines and certifies in writing to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay the imposition of the sanction for up to an additional 90 days if the President determines and certifies in writing to the Congress that that government is in the process of taking the actions described in the preceding sentence.

(3) REPORT TO CONGRESS.—Not later than 90 days after making a determination under subsection (a)(1), the President shall submit to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs[5] of the House of Representatives a report on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

(c) SANCTION.—

[5] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(1) DESCRIPTION OF SANCTION.—The sanction to be imposed pursuant to subsection (a)(1) is, except as provided in paragraph (2) of this subsection, that the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(2).

(2) EXCEPTIONS.—The President shall not be required to apply or maintain the sanction under this section—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

(ii) if the President determines in writing that the person or other entity to which the sanction would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines in writing that such articles or services are essential to the national security under defense coproduction agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanction;

(C) to—

(i) spare parts which are essential to United States products or production;

(ii) component parts, but not finished products, essential to United States products or production; or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

(d)[6] ADVISORY OPINIONS.—Upon the request of any person, the Secretary of State may, in consultation with the Secretary of Defense, issue in writing an advisory opinion to that person as to whether a proposed activity by that person would subject that person to the sanction under this section. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanction, and any person who thereafter engages in such activity, may not be made subject to such sanction on account of such activity.

(e) TERMINATION OF THE SANCTION.—The sanction imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of the sanction and shall cease to apply thereafter only if the President determines and certifies in writing to the Congress that—

[6] The Secretary of State delegated functions authorized under this subsection to the Under Secretary for International Security Affairs (Department of State Public Notice 2086; sec. 2 of Delegation of Authority No. 214; 59 F.R. 50790; October 5, 1994).

(1) reliable information indicates that the foreign person or United States person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in that subsection; and

(2) the President has received reliable assurances from the foreign person or United States person, as the case may be, that such person will not, in the future, aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in subsection (a)(1).

(f) WAIVER.—

(1) CRITERION FOR WAIVER.—The President may waive the application of the sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies in writing to the Congress that the continued imposition of the sanction would have a serious adverse effect on vital United States interests.

(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

**SEC. 822. ELIGIBILITY FOR ASSISTANCE.**

(a)[7] AMENDMENTS TO THE ARMS EXPORT CONTROL ACT.— * * *

(b) FOREIGN ASSISTANCE ACT OF 1961.—

(1) PRESIDENTIAL DETERMINATION 82–7.—Notwithstanding any other provision of law, Presidential Determination No. 82–7 of February 10, 1982,[8] made pursuant to section 670(a)(2) of the Foreign Assistance Act of 1961, shall have no force or effect with respect to any grounds for the prohibition of assistance under section 102(a)(1) of the Arms Export Control Act arising on or after the effective date of this part.

(2)[9] * * *

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[7] Subsec. (a) amended secs. 3 and 40 of the Arms Export Control Act (22 U.S.C. 2753, 2780).

[8] Presidential Determination No. 82–7 of February 10, 1982 (47 F.R. 9805; March 8, 1982), issued as a memorandum for the Secretary of State, read as follows:

"By the authority vested in me as President by the Constitution and statutes of the United States of America, including sections 620E and 670(a)(2) of the Foreign Assistance Act of 1961, as amended ("the Act"), I hereby:

"(1) determine, pursuant to section 620E(d) of the Act, that the provision of assistance to Pakistan under the Act through September 30, 1987, is in the national interest of the United States and therefore waive the prohibitions of section 669 of the Act with respect to that period;

"(2) determine and certify, pursuant to section 670(a)(2) of the Act, that not providing assistance referred to in section 670(a)(1) of the Act to Pakistan would be seriously prejudicial to the achievement of United States nonproliferation objectives and otherwise jeopardize the common defense and security;

"(3) authorize the provision of assistance referred to in sections 669(a)(1) and 670(a)(1) of the Act to Pakistan beginning thirty (30) days following submission of this determination and certification to the Congress.".

[9] Para. (2) amended sec. 620E(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2375(d)).

**SEC. 823. ROLE OF INTERNATIONAL FINANCIAL INSTITUTIONS.**

(a)[10] IN GENERAL.—The Secretary of the Treasury shall instruct the United States executive director to each of the international financial institutions described in section 701(a) of the International Financial Institutions Act (22 U.S.C. 262d(a)) to use the voice and vote of the United States to oppose any use of the institution's funds to promote the acquisition of unsafeguarded special nuclear material or the development, stockpiling, or use of any nuclear explosive device by any non-nuclear-weapon state.

(b)[11] * * *

**SEC. 824.[12] PROHIBITION ON ASSISTING NUCLEAR PROLIFERATION THROUGH THE PROVISION OF FINANCING.**

(a) PROHIBITED ACTIVITY DEFINED.—For purposes of this section, the term "prohibited activity" means the act of knowingly, materially, and directly contributing or attempting to contribute, through the provision of financing, to—

(1) the acquisition of unsafeguarded special nuclear material; or

(2) the use, development, production, stockpiling, or other acquisition of any nuclear explosive device,

by any individual, group, or non-nuclear-weapon state.

(b) PROHIBITION.—To the extent that the United States has jurisdiction to prohibit such activity by such person, no United States person and no foreign person may engage in any prohibited activity.

(c) PRESIDENTIAL DETERMINATION AND ORDER WITH RESPECT TO UNITED STATES AND FOREIGN PERSONS.—If the President determines,,[13] that a United States person or a foreign person has engaged in a prohibited activity (without regard to whether subsection (b) applies), the President shall, by order, impose the sanctions described in subsection (d) on such person.

(d) SANCTIONS.—The following sanctions shall be imposed pursuant to any order issued under subsection (c) with respect to any United States person or any foreign person:

(1) BAN ON DEALINGS IN GOVERNMENT FINANCE.—

(A) DESIGNATION AS PRIMARY DEALER.—Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, the person as a primary dealer in United States Government debt instruments.

(B) SERVICE AS DEPOSITARY.—The person may not serve as a depositary for United States Government funds.

(2) RESTRICTIONS ON OPERATIONS.—The person may not, directly or indirectly—

(A) commence any line of business in the United States in which the person was not engaged as of the date of the order; or

[10] 22 U.S.C. 6302.

[11] Subsec. (b) amended sec. 701(b)(3) of the International Financial Institutions Act (22 U.S.C. 262d(b)(3)).

[12] 22 U.S.C. 6303.

[13] Sec. 157(b)(1) of Public Law 104–164 (110 Stat. 1440) struck out "in writing after opportunity for a hearing on the record" (resulting in a double comma).

(B) conduct business from any location in the United States at which the person did not conduct business as of the date of the order.

(e)[14] CONSULTATION WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

(1) CONSULTATIONS.—If the President makes a determination under subsection (c) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with any appropriate foreign government with respect to the imposition of any sanction pursuant to this section.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—

(A) SUSPENSION OF PERIOD FOR IMPOSING SANCTIONS.—In order to pursue consultations described in paragraph (1) with any government referred to in such paragraph, the President may delay, for up to 90 days, the effective date of an order under subsection (c) imposing any sanction.

(B) COORDINATION WITH ACTIVITIES OF FOREIGN GOVERNMENT.—Following consultations described in paragraph (1), the order issued by the President under subsection (c) imposing any sanction on a foreign person shall take effect unless the President determines, and certifies in writing to the Congress, that the government referred to in paragraph (1) has taken specific and effective actions, including the imposition of appropriate penalties, to terminate the involvement of the foreign person in any prohibited activity.

(C) EXTENSION OF PERIOD.—After the end of the period described in subparagraph (A), the President may delay, for up to an additional 90 days, the effective date of an order issued under subsection (b) imposing any sanction on a foreign person if the President determines, and certifies in writing to the Congress, that the appropriate foreign government is in the process of taking actions described in subparagraph (B).

(3) REPORT TO CONGRESS.—Before the end of the 90-day period beginning on the date on which an order is issued under subsection (c), the President shall submit to the Congress a report on—

(A) the status of consultations under this subsection with the government referred to in paragraph (1); and

(B) the basis for any determination under paragraph (2) that such government has taken specific corrective actions.

(f)[14] TERMINATION OF THE SANCTIONS.—Any sanction imposed on any person pursuant to an order issued under subsection (c) shall—

(1) remain in effect for a period of not less than 12 months; and

(2) cease to apply after the end of such 12-month period only if the President determines, and certifies in writing to the Congress, that—

[14] Sec. 157(b)(2) and (3) of Public Law 104–164 (110 Stat. 1440) struck out subsec. (e) and redesignated subsecs. (f) through (k) as subsecs. (e) through (j), respectively. Former subsec. (e) had provided that: "Any determination of the President under subsection (c) shall be subject to judicial review in accordance with chapter 7 of part I of title 5, United States Code.".

(A) the person has ceased to engage in any prohibited activity; and

(B) the President has received reliable assurances from such person that the person will not, in the future, engage in any prohibited activity.

(g)[14] WAIVER.—The President may waive the continued application of any sanction imposed on any person pursuant to an order issued under subsection (c) if the President determines, and certifies in writing to the Congress, that the continued imposition of the sanction would have a serious adverse effect on the safety and soundness of the domestic or international financial system or on domestic or international payments systems.

(h)[14] ENFORCEMENT ACTION.—The Attorney General may bring an action in an appropriate district court of the United States for injunctive and other appropriate relief with respect to—

(1) any violation of subsection (b); or

(2) any order issued pursuant to subsection (c).

(i)[14] KNOWINGLY DEFINED.—

(1) IN GENERAL.—For purposes of this section, the term "knowingly" means the state of mind of a person with respect to conduct, a circumstance, or a result in which—

(A) such person is aware that such person is engaging in such conduct, that such circumstance exists, or that such result is substantially certain to occur; or

(B) such person has a firm belief that such circumstance exists or that such result is substantially certain to occur.

(2) KNOWLEDGE OF THE EXISTENCE OF A PARTICULAR CIRCUMSTANCE.—If knowledge of the existence of a particular circumstance is required for an offense, such knowledge is established if a person is aware of a high probability of the existence of such circumstance, unless the person actually believes that such circumstance does not exist.

(j)[14] SCOPE OF APPLICATION.—This section shall apply with respect to prohibited activities which occur on or after the date this part takes effect.

**SEC. 825.[15] EXPORT-IMPORT BANK.** * * *

**SEC. 826.[16] AMENDMENT TO THE ARMS EXPORT CONTROL ACT.** * * *

**SEC. 827.[17] REWARD.** * * *

**SEC. 828. REPORTS.**

(a)[18] CONTENT OF ACDA ANNUAL REPORT.—* * *

(b)[19] REPORTING ON DEMARCHES.—(1) It is the sense of the Congress that the Department of State should, in the course of implementing its reporting responsibilities under section 602(c) of the Nuclear Non-Proliferation Act of 1978, include a summary of

[15] Sec. 825 amended sec. 2(b)(4) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(4)).

[16] Sec. 826(a) added a new chapter 10 to the Arms Export Control Act, relating to nuclear proliferation controls (22 U.S.C. 2799aa *et seq.*). Sec. 826(b) repealed secs. 669 and 670 of the Foreign Assistance Act of 1961 (22 U.S.C. 2429, 2429a). Sec. 826(c) made corresponding technical amendments.

[17] Sec. 827 amended sec. 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(a)).

[18] Sec. 828(a) amended sec. 51(a) of the Arms Control and Disarmament Act.

[19] 22 U.S.C. 6304.

demarches that the United States has issued or received from foreign governments with respect to activities which are of significance from the proliferation standpoint.

(2) For purposes of this section, the term "demarche" means any official communication by one government to another, by written or oral means, intended by the originating government to express—

(A) a concern over a past, present, or possible future action or activity of the recipient government, or of a person within the jurisdiction of that government, contributing to the global spread of unsafeguarded special nuclear material or of nuclear explosive devices;

(B) a request for the recipient government to counter such action or activity; or

(C) both the concern and request described in subparagraphs (A) and (B).

* * * * * * *

**SEC. 830.[20] DEFINITIONS.**

For purposes of this part—

(1) the term "foreign person" means—

(A) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other nongovernment entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States;

(2) the term "goods or technology" means—

(A) nuclear materials and equipment and sensitive nuclear technology (as such terms are defined in section 4 of the Nuclear Non-Proliferation Act of 1978), all export items designated by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978, and all technical assistance requiring authorization under section 57 b. of the Atomic Energy Act of 1954, and

(B) in the case of exports from a country other than the United States, any goods or technology that, if exported from the United States, would be goods or technology described in subparagraph (A);

(3) the term "IAEA safeguards" means the safeguards set forth in an agreement between a country and the International Atomic Energy Agency, as authorized by Article III(A)(5) of the Statute of the International Atomic Energy Agency;

(4) the term "nuclear explosive device" means any device, whether assembled or disassembled, that is designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT);

(5) the term "non-nuclear-weapon state" means any country which is not a nuclear-weapon state, as defined by Article IX

[20] 22 U.S.C. 6305.

(3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968;

(6) the term "special nuclear material" has the meaning given that term in section 11 aa. of the Atomic Energy Act of 1954 (42 U.S.C. 2014aa);

(7) the term "United States person" means—

(A) an individual who is a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other nongovernment entity which is not a foreign person; and

(8) the term "unsafeguarded special nuclear material" means special nuclear material which is held in violation of IAEA safeguards or not subject to IAEA safeguards (excluding any quantity of material that could, if it were exported from the United States, be exported under a general license issued by the Nuclear Regulatory Commission).

**SEC. 831. EFFECTIVE DATE.**

The provisions of this part, and the amendments made by this part, shall take effect 60 days after the date of the enactment of this Act.

## PART C—INTERNATIONAL ATOMIC ENERGY AGENCY

**SEC. 841.[21] BILATERAL AND MULTILATERAL INITIATIVES.**

It is the sense of the Congress that in order to maintain and enhance international confidence in the effectiveness of IAEA safeguards and in other multilateral undertakings to halt the global proliferation of nuclear weapons, the United States should seek to negotiate with other nations and groups of nations, including the IAEA Board of Governors and the Nuclear Suppliers Group, to—

(1) build international support for the principle that nuclear supply relationships must require purchasing nations to agree to full-scope international safeguards;

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[21] 22 U.S.C. 6321. Sec. 3631 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1825) provided as follows:

**"SEC. 3631. PROMOTION OF DISCUSSIONS ON NUCLEAR AND RADIOLOGICAL SECURITY AND SAFETY BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY AND THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT.**

"(a) SENSE OF CONGRESS REGARDING INITIATION OF DIALOGUE BETWEEN THE IAEA AND THE OECD.—It is the sense of Congress that—

"(1) the United States should seek to initiate discussions between the International Atomic Energy Agency and the Organization for Economic Cooperation and Development for the purpose of exploring issues of nuclear and radiological security and safety, including the creation of new sources of revenue (including debt reduction) for states to provide nuclear security; and

"(2) the discussions referred to in paragraph (1) should also provide a forum to explore possible sources of funds in support of the G-8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction.

"(b) CONTINGENT REPORT.—(1) Except as provided in paragraph (2), the President shall, not later than 12 months after the date of the enactment of this Act, submit to Congress a report on—

"(A) the efforts made by the United States to initiate the discussions described in subsection (a);

"(B) the results of those efforts; and

"(C) any plans for further discussions and the purposes of such discussions.

"(2) Paragraph (1) shall not apply if no efforts referred to in paragraph (1)(A) have been made.".

(2) encourage each nuclear-weapon state within the meaning of the Treaty to undertake a comprehensive review of its own procedures for declassifying information relating to the design or production of nuclear explosive devices and to investigate any measures that would reduce the risk of such information contributing to nuclear weapons proliferation;

(3) encourage the deferral of efforts to produce weapons-grade nuclear material for large-scale commercial uses until such time as safeguards are developed that can detect, on a timely and reliable basis, the diversion of significant quantities of such material for nuclear explosive purposes;

(4) pursue greater financial support for the implementation and improvement of safeguards from all IAEA member nations with significant nuclear programs, particularly from those nations that are currently using or planning to use weapons-grade nuclear material for commercial purposes;

(5) arrange for the timely payment of annual financial contributions by all members of the IAEA, including the United States;

(6) pursue the elimination of international commerce in highly enriched uranium for use in research reactors while encouraging multilateral cooperation to develop and to use low-enriched alternative nuclear fuels;

(7) oppose efforts by non-nuclear-weapon states to develop or use unsafeguarded nuclear fuels for purposes of naval propulsion;

(8) pursue an international open skies arrangement that would authorize the IAEA to operate surveillance aircraft and would facilitate IAEA access to satellite information for safeguards verification purposes;

(9) develop an institutional means for IAEA member nations to share intelligence material with the IAEA on possible safeguards violations without compromising national security or intelligence sources or methods;

(10) require any exporter of a sensitive nuclear facility or sensitive nuclear technology to a non-nuclear-weapon state to notify the IAEA prior to export and to require safeguards over that facility or technology, regardless of its destination; and

(11) seek agreement among the parties to the Treaty to apply IAEA safeguards in perpetuity and to establish new limits on the right to withdraw from the Treaty.

**SEC. 842.[22] IAEA INTERNAL REFORMS.**

In order to promote the early adoption of reforms in the implementation of the safeguards responsibilities of the IAEA, the Congress urges the President to negotiate with other nations and groups of nations, including the IAEA Board of Governors and the Nuclear Suppliers Group, to—

(1) improve the access of the IAEA within nuclear facilities that are capable of producing, processing, or fabricating special nuclear material suitable for use in a nuclear explosive device;

(2)(A) facilitate the IAEA's efforts to meet and to maintain its own goals for detecting the diversion of nuclear materials

[22] 22 U.S.C. 6322.

and equipment, giving particular attention to facilities in which there are bulk quantities of plutonium; and

(B) if it is not technically feasible for the IAEA to meet those detection goals in a particular facility, require the IAEA to declare publicly that it is unable to do so;

(3) enable the IAEA to issue fines for violations of safeguards procedures, to pay rewards for information on possible safeguards violations, and to establish a "hot line" for the reporting of such violations and other illicit uses of weapons-grade nuclear material;

(4) establish safeguards at facilities engaged in the manufacture of equipment or material that is especially designated or prepared for the processing, use, or production of special fissionable material or, in the case of non-nuclear-weapon states, of any nuclear explosive device;

(5) establish safeguards over nuclear research and development activities and facilities;

(6) implement special inspections of undeclared nuclear facilities, as provided for under existing safeguards procedures, and seek authority for the IAEA to conduct challenge inspections on demand at suspected nuclear sites;

(7) expand the scope of safeguards to include tritium, uranium concentrates, and nuclear waste containing special fissionable material, and increase the scope of such safeguards on heavy water;

(8) revise downward the IAEA's official minimum amounts of nuclear material ("significant quantity") needed to make a nuclear explosive device and establish these amounts as national rather than facility standards;

(9) expand the use of full-time resident IAEA inspectors at sensitive fuel cycle facilities;

(10) promote the use of near real time material accountancy in the conduct of safeguards at facilities that use, produce, or store significant quantities of special fissionable material;

(11) develop with other IAEA member nations an agreement on procedures to expedite approvals of visa applications by IAEA inspectors;

(12) provide the IAEA the additional funds, technical assistance, and political support necessary to carry out the goals set forth in this subsection; and

(13) make public the annual safeguards implementation report of the IAEA, establishing a public registry of commodities in international nuclear commerce, including dual-use goods, and creating a public repository of current nuclear trade control laws, agreements, regulations, and enforcement and judicial actions by IAEA member nations.

**SEC. 843.[23] REPORTING REQUIREMENT.**

(a) REPORT REQUIRED.—The President shall, in the report required by section 601(a) of the Nuclear Non-Proliferation Act of 1978, describe—

(1) the steps he has taken to implement sections 841 and 842, and

[23] 22 U.S.C. 6323.

(2) the progress that has been made and the obstacles that have been encountered in seeking to meet the objectives set forth in sections 841 and 842.

(b) CONTENTS OF REPORT.—Each report under paragraph (1) shall describe—

(1) the bilateral and multilateral initiatives that the President has taken during the period since the enactment of this Act in pursuit of each of the objectives set forth in sections 841 and 842;

(2) any obstacles that have been encountered in the pursuit of those initiatives;

(3) any additional initiatives that have been proposed by other countries or international organizations to strengthen the implementation of IAEA safeguards;

(4) all activities of the Federal Government in support of the objectives set forth in sections 841 and 842;

(5) any recommendations of the President on additional measures to enhance the effectiveness of IAEA safeguards; and

(6) any initiatives that the President plans to take in support of each of the objectives set forth in sections 841 and 842.

**SEC. 844.[24] DEFINITIONS.**

As used in this part—

(1) the term "highly enriched uranium" means uranium enriched to 20 percent or more in the isotope U–235;

(2) the term "IAEA" means the International Atomic Energy Agency;

(3) the term "near real time material accountancy" means a method of accounting for the location, quantity, and disposition of special fissionable material at facilities that store or process such material, in which verification of peaceful use is continuously achieved by means of frequent physical inventories and the use of in-process instrumentation;

(4) the term "special fissionable material" has the meaning given that term by Article XX(1) of the Statute of the International Atomic Energy Agency, done at the Headquarters of the United Nations on October 26, 1956;

(5) the term "the Treaty" means the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968; and

(6) the terms "IAEA safeguards", "non-nuclear-weapon state", "nuclear explosive device", and "special nuclear material" have the meanings given those terms in section 830 of this Act.

## PART D—TERMINATION * * * [Repealed—1996][25]

[24] 22 U.S.C. 6324.

[25] Sec. 157(a) of Public Law 104–164 (110 Stat. 1440) repealed part D, which consisted only of sec. 851, which had provided the following:

"**SEC. 851. TERMINATION UPON ENACTMENT OF NEXT FOREIGN RELATIONS ACT.**

"On the date of enactment of the first Foreign Relations Authorization Act that is enacted after the enactment of this Act, the provisions of parts A and B of this title shall cease to be

Continued

effective, the amendments made by those parts shall be repealed, and any provision of law repealed by those parts shall be reenacted.".

## s. Weapons of Mass Destruction Control Act of 1992

**Partial text of Public Law 102–484 [National Defense Authorization Act for Fiscal Year 1993; H.R. 5006], 106 Stat. 2315, approved October 23, 1992; as amended by Public Law 103–160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 2401], 107 Stat. 1547, approved November 30, 1993; Public Law 103–337 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994; Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; Public Law 104–201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; Public Law 105–85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119], 111 Stat. 1629, approved November 18, 1997; Public Law 105–261 [Strom Thurmond National Defense Authorization Act for Fiscal Year 1999; H.R. 3616], 112 Stat. 1920, approved October 17, 1998; Public Law 106–65 [National Defense Authorization Act for Fiscal Year 2000; S. 1059], 113 Stat. 512, approved October 5, 1999; Public Law 106–398 [Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001; H.R. 4205], 114 Stat. 1654, approved October 30, 2000; Public Law 107–107 [National Defense Authorization Act for Fiscal Year 2002; S. 1438], 115 Stat. 1012, approved December 28, 2001; and Public Law 107–314 [Bob Stump National Defense Authorization Act for Fiscal Year 2003; H.R. 4546], 116 Stat. 2458, approved December 2, 2002**

## TITLE XV—NONPROLIFERATION

**SEC. 1501. SHORT TITLE.**

This title may be cited as the "Weapons of Mass Destruction Control Act of 1992".

**SEC. 1502. SENSE OF CONGRESS.**

It is the sense of the Congress that—

(1) the proliferation (A) of nuclear, biological, and chemical weapons (hereinafter in this title referred to as "weapons of mass destruction") and related technology and knowledge and (B) of missile delivery systems remains one of the most serious threats to international peace and the national security of the United States in the post-cold war era;

(2) the proliferation of nuclear weapons, given the extraordinary lethality of those weapons, is of particularly serious concern;

(3) the nonproliferation policy of the United States should continue to seek to limit both the supply of and demand for weapons of mass destruction and to reduce the existing threat from proliferation of such weapons;

(4) substantial funding of nonproliferation activities by the United States is essential to controlling the proliferation of all weapons of mass destruction, especially nuclear weapons and missile delivery systems;

(5) the President's nonproliferation policy statement of June 1992, and his September 10, 1992, initiative to increase funding for nonproliferation activities in the Department of Energy are praiseworthy;

(6) the Congress is committed to cooperating with the President in carrying out an effective policy designed to control the proliferation of weapons of mass destruction;

(7) the President should identify a full range of appropriate, high priority nonproliferation activities that can be undertaken by the United States and should include requests for full funding for those activities in the budget submission for fiscal year 1994;

(8) the Department of Defense and the Department of Energy have unique expertise that can further enhance the effectiveness of international nonproliferation activities;

(9) under the guidance of the President, the Secretary of Defense and the Secretary of Energy should continue to actively assist in United States nonproliferation activities and in formulating and executing United States nonproliferation policy, emphasizing activities such as improved capabilities (A) to detect and monitor proliferation, (B) to respond to terrorism, theft, and accidents involving weapons of mass destruction, and (C) to assist with interdiction and destruction of weapons of mass destruction and related weapons material; and

(10) in a manner consistent with United States nonproliferation policy, the Department of Defense and the Department of Energy should continue to maintain and to improve their capabilities to identify, monitor, and respond to proliferation of weapons of mass destruction and missile delivery systems.

**SEC. 1503. REPORT ON DEPARTMENT OF DEFENSE AND DEPARTMENT OF ENERGY NONPROLIFERATION ACTIVITIES.**

(a) REPORT REQUIRED.—The Secretary of Defense and the Secretary of Energy shall jointly submit to the committees of Congress named in subsection (d)(1) a report describing the role of the Department of Defense and the Department of Energy with respect to the nonproliferation policy of the United States.

(b) MATTERS TO BE COVERED IN REPORT.—The report shall—

(1) address how the Secretary of Defense integrates and coordinates existing intelligence and military capabilities of the Department of Defense and how the Secretary of Energy integrates and coordinates the intelligence and emergency response capabilities of the Department of Energy in support of the nonproliferation policy of the United States;

(2) identify existing and planned capabilities within the Department of Defense, including particular capabilities of the military services, and the Department of Energy to (A) detect and monitor clandestine weapons of mass destruction programs, (B) respond to terrorism or accidents involving such weapons and to theft of related weapons materials, and (C) assist with interdiction and destruction of weapons of mass destruction and related weapons materials;

(3) describe, for the Department of Defense, the degree to which the Secretary of Defense has incorporated a nonproliferation mission into the overall mission of the unified combatant commands and how the Special Operations Command might support the commanders of the unified and specified commands in that mission;

(4) consider the appropriate roles of the Defense Advance Research Projects Agency (DARPA), the Defense Nuclear Agency (DNA), the On-Site-Inspection Agency (OSIA), and other Department of Defense agencies, as well as the national laboratories of the Department of Energy, in providing technical assistance and support for the efforts of the Department of Defense and the Department of Energy with respect to nonproliferation; and

(5) identify existing and planned mechanisms for improving the integration of Department of Defense and Department of Energy nonproliferation activities with those of other Federal departments and agencies.

(c) COORDINATION WITH OTHER AGENCIES.—The report required by subsection (a) shall, for purposes of subsection (b)(5), be coordinated with the heads of other appropriate departments and agencies.

(d) SUBMISSION OF REPORT.—(1) The report required by subsection (a) shall be submitted—

(A) to the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(B) to the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Energy and Commerce of the House of Representatives.[1]

(2) The report shall be submitted not later than 180 days after the date of enactment of this Act and shall be submitted in unclassified form and, as necessary, in classified form.

**SEC. 1504. NONPROLIFERATION TECHNOLOGY INITIATIVE.**

(a) FUNDS FOR DEPARTMENT OF DEFENSE ACTIVITIES.—

(1) Of the amount appropriated pursuant to section 103(3) for Other Procurement, Air Force, $5,000,000 shall be available for the AFTAC Chem/Biological Collection/Processing program.

(2) Of the amount appropriated pursuant to section 201(3) for Research, Development, Test, and Evaluation, Air Force, $6,500,000 shall be available for the Joint Seismic Program.

(3) Of the amount appropriated pursuant to section 201(4) for Research, Development, Test, and Evaluation, Defense Agencies—

(A) $11,600,000 shall be available for LIDAR,

(B) $5,000,000 shall be available for Seismic programs of the Defense Advanced Research Projects Agency, and

(C) $15,000,000 shall be available for Nuclear Proliferation Detection Technology programs of the Defense Advanced Research Projects Agency.

(b) FUNDS FOR DEPARTMENT OF ENERGY ACTIVITIES.—Of the amount appropriated pursuant to section 3104(a)(2) for Verification and Control Technologies, $86,000,000 shall be available for nuclear nonproliferation detection technologies and activities. Of such

[1] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(4) of that Act provided that references to the Committee on Energy and Commerce shall be treated as referring to the Committee on Commerce. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

amount, not more than $30,000,000 may be obligated until the report required by section 1503 is submitted.

**SEC. 1505.[2] INTERNATIONAL NONPROLIFERATION INITIATIVE.**

(a) ASSISTANCE FOR INTERNATIONAL NONPROLIFERATION ACTIVITIES.—Subject to the limitations and requirements provided in this section,[3] the Secretary of Defense, under the guidance of the President, may provide assistance to support international nonproliferation activities.

(b) ACTIVITIES FOR WHICH ASSISTANCE MAY BE PROVIDED.—Activities for which assistance may be provided under this section are activities such as the following:

(1) Activities carried out by international organizations[4] that are designed to ensure more effective safeguards against[5] proliferation and more effective[6] verification of compliance with the international agreements on nonproliferation.[7]

(2) Activities of the Department of Defense[8] in support of the United Nations Special Commission on Iraq (or any successor organization).[9]

(3) Collaborative international nuclear security and nuclear safety projects to combat the threat of nuclear theft, terrorism, or accidents, including joint emergency response exercises, technical assistance, and training.

(4) Efforts to improve international cooperative monitoring of nuclear, biological, chemical, and missile proliferation through technical projects and improved information sharing.[10]

(c) FORM OF ASSISTANCE.—(1) Assistance under this section may include funds and in-kind contributions of supplies, equipment, personnel, training, and other forms of assistance.

(2) Assistance under this section may be provided to international organizations in the form of funds only if the amount in the "Contributions to International Organizations" account of the Department of State is insufficient or otherwise unavailable to meet the United States fair share of assessments for international nuclear nonproliferation activities.

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[2] 22 U.S.C. 5859a.

[3] Sec. 1602(a) of Public Law 103–160 (107 Stat. 1843) struck out "fiscal year 1993" and inserted in lieu thereof "fiscal year 1994". Sec. 1501(a)(1) of Public Law 103–337 (108 Stat. 2914) further extended this initiative to include FY 1995. Sec. 1403(a)(1) of Public Law 104–106 (110 Stat. 489) struck out "during fiscal years 1994 and 1995".

[4] Sec. 1501(b)(1)(A) of Public Law 103–337 (108 Stat. 2914) struck out "the International Atomic Energy Agency (IAEA)" and inserted in lieu thereof "international organizations".

[5] Sec. 1501(b)(1)(B) of Public Law 103–337 (108 Stat. 2914) struck out "nuclear" before "proliferation".

[6] Sec. 1501(b)(1)(C) of Public Law 103–337 (108 Stat. 2914) struck out "aggressive" and inserted in lieu thereof "effective".

[7] Sec. 1501(b)(1)(D) of Public Law 103–337 (108 Stat. 2914) struck out "Treaty on the Non-Proliferation of Nuclear Weapons, done on July 1, 1968.", and inserted in lieu thereof "international agreements on nonproliferation.".

[8] Sec. 1403(b)(1) of Public Law 104–106 (110 Stat. 489) struck out "On-Site Inspection Agency" and inserted in lieu thereof "Department of Defense".

[9] Sec. 9110(e) of the Department of Defense Appropriations Act, 1993 (Public Law 102–396; 106 Stat. 1929), provided the following transfer of funds: "* * * *Provided further*, That up to $20,000,000 of the transfer authority provided in this section may be used for the activities of the On-Site Inspection Agency in support of the United Nations Special Commission on Iraq.".

Sec. 1505(c)(1) of Public Law 106–65 (113 Stat. 808) inserted "(or any successor organization)".

[10] Sec. 1501(b)(2) of Public Law 103–337 (108 Stat. 2914) struck out "nuclear proliferation through joint technical projects and improved intelligence sharing" and inserted in lieu thereof "nuclear, biological, chemical, and missile proliferation through technical projects and improved information sharing".

(3) No amount may be obligated for an expenditure under this section unless the Director of the Office of Management and Budget determines that the expenditure will be counted as discretionary spending in the national defense budget function (function 050).[11]

(4) No assistance may be furnished under this section unless the Secretary of Defense determines and certifies to the Congress 30 days in advance that the provision of such assistance—

(A) is in the national security interest of the United States; and

(B) will not adversely affect the military preparedness of the United States.

(5) The authority to provide assistance under this section in the form of funds may be exercised only to the extent and in the amounts provided in advance in appropriations Act.

(d) SOURCES OF ASSISTANCE.—(1) Funds provided as assistance under this section for any fiscal year shall be derived from amounts made available to the Department of Defense for that fiscal year.[12] Funds provided as assistance under this section for a fiscal year[13] may also be derived[14] from balances in working capital accounts of the Department of Defense.

(2) Supplies and equipment provided as assistance under this section may be provided, by loan or donation, from existing stocks of the Department of Defense and the Department of Energy.

(3)[15] The total amount of the assistance provided in the form of funds under this section, including funds used for activities of the

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[11] Sec. 1403(b)(2) of Public Law 104–106 (110 Stat. 490) struck out "will be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985." and inserted in lieu thereof "will be counted as discretionary spending in the national defense budget function (function 050).".

[12] Sec. 1403(c)(1)(A) of Public Law 104–106 (110 Stat. 490) struck out "for fiscal year 1994 shall be derived from amounts made available to the Department of Defense for fiscal year 1994. Funds provided as assistance under this section for fiscal year 1995 shall be derived from amounts made available to the Department of Defense for fiscal year 1995.", and inserted in lieu thereof "for any fiscal year shall be derived from amounts made available to the Department of Defense for that fiscal year.".

Previously, sec. 1501(c)(1)(A) of Public Law 103–337 (108 Stat. 2914) inserted "for fiscal year 1994" after "under this section".

[13] Sec. 1403(c)(1)(B) of Public Law 104–106 (110 Stat. 490) struck out "referred to in this paragraph" after "for a fiscal year".

[14] Sec. 1501(c)(1)(B) of Public Law 103–337 (108 Stat. 2914) struck out "fiscal year 1994 or" and inserted in lieu thereof "fiscal year 1994. Funds provided as assistance under this section for fiscal year 1995 shall be derived from amounts made available to the Department of Defense for fiscal year 1995. Funds provided as assistance under this section for a fiscal year referred to in this paragraph may also be derived".

[15] Sec. 1602(b) of Public Law 103–160 (107 Stat. 1843) struck out "$40,000,000" and inserted in lieu thereof "$25,000,000, including funds used for activities of the On-Site Inspection Agency in support of the United Nations Special Commission on Iraq"; and struck out the section sentence of this para., which read as follows: "Of such amount, not more than $20,000,000 may be used for the activities of the On-Site Inspection Agency in support of the United Nations Special Commission on Iraq.".

Sec. 1501(c)(2) of Public Law 103–337 (108 Stat. 2914) inserted "for fiscal year 1994 and $20,000,000 for fiscal year 1995" after "$25,000,000".

Sec. 1403(c)(2)(A) of Public Law 104–106 (110 Stat. 490) struck out "may not exceed $25,000,000 for fiscal year 1994 or $20,000,000 for fiscal year 1995". Sec. 1403(c)(2)(B) of that Act inserted at the end of the same sentence, "may not exceed $25,000,000 for fiscal year 1994, $20,000,000 for fiscal year 1995, or $15,000,000 for fiscal year 1996".

Sec. 1301(a)(1) of Public Law 104–201 (110 Stat. 2700) struck out "or" after "fiscal year 1995," and inserted "or $15,000,000 for fiscal year 1997" at the end of the sentence.

Sec. 1308 of Public Law 105–85 (111 Stat. 1956) struck out "or" after "fiscal year 1996" and added ", or $15,000,000 for fiscal year 1998" at the end of the para.

Sec. 1531(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2180) provided the following:

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Department of Defense[16] in support of the United Nations Special Commission on Iraq, may not exceed $25,000,000 for fiscal year 1994, $20,000,000 for fiscal year 1995, $15,000,000 for fiscal year 1996, $15,000,000 for fiscal year 1997; or $15,000,000 for fiscal year 1998.

(4)[17] (A) In the event of a significant unforeseen development related to the activities of the United Nations Special commission on Iraq (or any successor organization)[18] for which the Secretary of Defense determines that financial assistance under this section is required at a level which would result in the total amount of assistance provided under this section during the then-current fiscal year exceeding the amount of any limitation provided by law on the total amount of such assistance for that fiscal year, the Secretary of Defense may provide such assistance with respect to that fiscal year notwithstanding that limitation.[19]

(B) Financial assistance may be provided under subparagraph (A) only after the Secretary of Defense provides notice in writing to the committees of Congress named in subsection (e)(2) of the significant unforeseen development and of the Secretary's intent to provide assistance in excess of the limitation for that fiscal year.[20] However, if the Secretary determines in any case that under the specific circumstances of that case advance notice is not possible, such notice shall be provided as soon as possible and not later than

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"(a) AMOUNT AUTHORIZED FOR FISCAL YEAR 1999.—The total amount of assistance for fiscal year 1999 provided by the Secretary of Defense under section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) that is provided for activities of the Department of Defense in support of the United Nations Special Commission on Iraq, may not exceed $15,000,000.".

Sec. 1505(a) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 808) provided the following:

"(a) LIMITATION ON AMOUNT OF ASSISTANCE IN FISCAL YEAR 2000.—The total amount of the assistance for fiscal year 2000 that is provided by the Secretary of Defense under section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) as activities of the Department of Defense in support of activities under that Act may not exceed $15,000,000.".

Sec. 1201(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398; 114 Stat. 1654) provided the following:

"(a) LIMITATION ON AMOUNT OF ASSISTANCE IN FISCAL YEAR 2001.—The total amount of the assistance for fiscal year 2001 that is provided by the Secretary of Defense under section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) as activities of the Department of Defense in support of activities under that Act may not exceed $15,000,000.".

[16] Sec. 1403(b)(1) of Public Law 104–106 (110 Stat. 489) struck out "On-Site Inspection Agency" and inserted in lieu thereof "Department of Defense".

[17] Sec. 1301(b) of Public Law 104–201 (110 Stat. 2700) added para. (4). Previously, sec. 1602(c) of Public Law 103–160 (107 Stat. 1843) struck out the original para. (4) of subsec. (d), which had read as follows:

"(4) Not less than 30 days before obligating any funds to provide assistance under this section, the Secretary of Defense shall transmit to the committees of Congress named in subsection (e)(2) a report on the proposed obligation. Each such report shall specify—

"(A) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

"(B) the activities and forms of assistance for which the Secretary of Defense plans to obligate the funds.".

[18] Sec. 1505(c)(2)(A)(i) of Public Law 106–65 (113 Stat. 808) inserted "(or any successor organization)".

[19] Sec. 1505(c)(2)(A)(ii) of Public Law 106–65 (113 Stat. 808) struck out "the amount specified with respect to that year under paragraph (3), the Secretary of Defense may provide such assistance notwithstanding the limitation with respect to that fiscal year under paragraph (3). Funds for such purpose may be derived from any funds available to the Department of Defense for that fiscal year." and inserted in lieu thereof "the amount of any limitation provided by law on the total amount of such assistance for that fiscal year, the Secretary of Defense may provide such assistance with respect to that fiscal year notwithstanding that limitation.".

[20] Sec. 1505(c)(2)(B) of Public Law 106–65 (113 Stat. 808) struck out "under paragraph (3)" at this point.

15 days after the date on which the assistance is provided. Any notice under this subparagraph shall include a description of the development, the amount of assistance provided or to be provided, and the source of the funds for that assistance.

(e) QUARTERLY REPORT.—(1) Not later than 30 days after the end of each quarter of a fiscal year during which the authority of the Secretary of Defense to provide assistance under this section is in effect,[21] the Secretary of Defense shall transmit to the committees of Congress named in paragraph (2) a report of the activities to reduce the proliferation threat carried out under this section. Each report shall set forth (for the preceding quarter and cumulatively)—

(A) the amounts spent for such activities and the purposes for which they were spent;

(B) a description of the participation of the Department of Defense and the Department of Energy and the participation of other Government agencies in those activities; and

(C) a description of the activities for which the funds were spent.

(2) The committees of Congress to which reports under paragraph (1)[22] are to be transmitted are—

(A) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Relations of the Senate; and

(B) the Committee on Armed Services, the Committee on Appropriations, the Committee on Foreign Affairs, and the Committee on Energy and Commerce of the House of Representatives.[23]

(f)[24] TERMINATION OF AUTHORITY.—The authority of the Secretary of Defense to provide assistance under this section terminates at the close of fiscal year 2003.

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[21] Sec. 1602(a) of Public Law 103–160 (107 Stat. 1843) struck out "fiscal year 1993" and inserted in lieu thereof "fiscal year 1994". Sec. 1403(a)(2) of Public Law 104–106 (110 Stat. 489) subsequently struck out "fiscal years 1994 and 1995" and inserted in lieu thereof "of a fiscal year during which the authority of the Secretary of Defense to provide assistance under this section is in effect".

[22] Para. (2) originally read, "(2) The committees of Congress to which reports under paragraph (1) and under subsection (d)(2) are to be transmitted are—". Sec. 1182(c)(5) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1772) struck out "(d)(2)" and inserted in lieu thereof "(d)(4)". Sec. 1070(c)(1) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2857) subsequently struck out "and under subsection (d)(4)".

[23] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(4) of that Act provided that references to the Committee on Energy and Commerce shall be treated as referring to the Committee on Commerce. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

Subsequently, sec. 1067(8) of Public Law 106–65 (113 Stat. 774) struck out "Committee on National Security" and inserted in lieu thereof "Committee on Armed Services".

[24] Sec. 1403(a)(3) of Public Law 104–106 (110 Stat. 489) added subsec. (f), to provide for this authority through fiscal year 1996. Sec. 1301(a)(2) of Public Law 104–201 (110 Stat. 2700) struck out "1996" and inserted in lieu thereof "1997". Sec. 1308(2) of Public Law 105–85 (111 Stat. 1956) extended the authority through fiscal year 1998. Sec. 1531(b) of Public Law 105–261 (112 Stat. 2180) extended the authority through fiscal year 1999. Sec. 1505(b) of Public Law 106–65 (113 Stat. 808) extended the authority through fiscal year 2000. Sec. 1201(b) of Public Law 106–398 (114 Stat. 1654) extended the authority through fiscal year 2001. Sec. 1203(b) of Public Law 107–107 (115 Stat. 1246) extended the authority through fiscal year 2002. Sec. 1204(b) of Public Law 107–314 (116 Stat. 2664) extended the authority through fiscal year 2003.

## t. Iran-Iraq Arms Non-Proliferation Act of 1992

**Partial text of Public Law 102–484 [National Defense Authorization Act for Fiscal Year 1993; H.R. 5006], 106 Stat. 2315 at 2571, approved October 23, 1992; as amended by Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; and Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002**

## TITLE XVI—IRAN-IRAQ ARMS NON-PROLIFERATION ACT OF 1992

**SEC. 1601.[1] SHORT TITLE.**

This title may be cited as the "Iran-Iraq Arms Non-Proliferation Act of 1992".

**SEC. 1602. UNITED STATES POLICY.**

(a) IN GENERAL.—It shall be the policy of the United States to oppose, and urgently to seek the agreement of other nations also to oppose, any transfer to Iran or Iraq of any goods or technology, including dual-use goods or technology, wherever that transfer could materially contribute to either country's acquiring chemical, biological, nuclear, or destabilizing numbers and types of advanced conventional weapons.

(b) SANCTIONS.—(1) In the furtherance of this policy, the President shall apply sanctions and controls with respect to Iran, Iraq, and those nations and persons who assist them in acquiring weapons of mass destruction in accordance with the Foreign Assistance Act of 1961, the Nuclear Non-Proliferation Act of 1978, the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, chapter 7 of the Arms Export Control Act,[2] and other relevant statutes, regarding the non-proliferation of weapons of mass destruction and the means of their delivery.

(2) The President should also urgently seek the agreement of other nations to adopt and institute, at the earliest practicable date, sanctions and controls comparable to those the United States is obligated to apply under this subsection.

(c) PUBLIC IDENTIFICATION.—The Congress calls on the President to identify publicly (in the report required by section 1607) any country or person that transfers goods or technology to Iran or Iraq contrary to the policy set forth in subsection (a).

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[1] 50 U.S.C. 1701 note. Popularly referred to as the "Gore-McCain Act". In a September 27, 1994, memorandum for the Secretary of State, the President delegated all functions vested in the President by this title to the Secretary of State, in consultation with the Secretaries of Defense, Treasury, Commerce, the Director of the Arms Control and Disarmament Agency, and other heads of appropriate departments and agencies (59 F.R. 50685; October 5, 1994).

[2] For text of the Foreign Assistance Act of 1961 (Public Law 87–195) and chapter 7 of the Arms Export Control Act, see *Legislation on Foreign Relations Through 2008*, vol. I–A.

**SEC. 1603. APPLICATION TO IRAN OF CERTAIN IRAQ SANCTIONS.**

The sanctions against Iraq specified in paragraphs (1) through (4) of section 586G(a) of the Iraq Sanctions Act of 1990 (as contained in Public Law 101–513),[3] including denial of export licenses for United States persons and prohibitions on United States Government sales, shall be applied to the same extent and in the same manner with respect to Iran.

**SEC. 1604. SANCTIONS AGAINST CERTAIN PERSONS.**

(a) PROHIBITION.—If any person transfers or retransfers goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq (or any agency or instrumentality of either such country) to acquire chemical, biological, or nuclear weapons or[4] to acquire destabilizing numbers and types of advanced conventional weapons, then the sanctions described in subsection (b) shall be imposed.

(b) MANDATORY SANCTIONS.—The sanctions to be imposed pursuant to subsection (a) are as follows:

(1) PROCUREMENT SANCTION.—For a period of two years, the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from the sanctioned person.

(2) EXPORT SANCTION.—For a period of two years, the United States Government shall not issue any license for any export by or to the sanctioned person.

**SEC. 1605. SANCTIONS AGAINST CERTAIN FOREIGN COUNTRIES.**

(a) PROHIBITION.—If the President determines that the government of any foreign country transfers or retransfers goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq (or any agency or instrumentality of either such country) to acquire chemical, biological, or nuclear weapons or[5] to acquire destabilizing numbers and types of advanced conventional weapons, then—

(1) the sanctions described in subsection (b) shall be imposed on such country; and

(2) in addition, the President may apply, in the discretion of the President, the sanction described in subsection (c).

(b) MANDATORY SANCTIONS.—Except as provided in paragraph (2), the sanctions to be imposed pursuant to subsection (a)(1) are as follows:

(1) SUSPENSION OF UNITED STATES ASSISTANCE.—The United States Government shall suspend, for a period of one year, United States assistance to the sanctioned country.

(2) MULTILATERAL DEVELOPMENT BANK ASSISTANCE.—The Secretary of the Treasury shall instruct the United States Executive Director to each appropriate international financial institution to oppose, and vote against, for a period of one year, the extension by such institution of any loan or financial or technical assistance to the sanctioned country.

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[3] For text, see *Legislation on Foreign Relations Through 2008*, vol. I–B.

[4] Sec. 1408(a) of Public Law 104–106 (110 Stat. 494) inserted "to acquire chemical, biological, or nuclear weapons or" before "to acquire".

[5] Sec. 1408(b) of Public Law 104–106 (110 Stat. 494) inserted "to acquire chemical, biological, or nuclear weapons or" before "to acquire".

(3) SUSPENSION OF CODEVELOPMENT OR COPRODUCTION AGREEMENTS.—The United States shall suspend, for a period of one year, compliance with its obligations under any memorandum of understanding with the sanctioned country for the codevelopment or coproduction of any item on the United States Munitions List (established under section 38 of the Arms Export Control Act), including any obligation for implementation of the memorandum of understanding through the sale to the sanctioned country of technical data or assistance or the licensing for export to the sanctioned country of any component part.

(4) SUSPENSION OF MILITARY AND DUAL-USE TECHNICAL EXCHANGE AGREEMENTS.—The United States shall suspend, for a period of one year, compliance with its obligations under any technical exchange agreement involving military and dual-use technology between the United States and the sanctioned country that does not directly contribute to the security of the United States, and no military or dual-use technology may be exported from the United States to the sanctioned country pursuant to that agreement during that period.

(5) UNITED STATES MUNITIONS LIST.—No item on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) may be exported to the sanctioned country for a period of one year.

(c) DISCRETIONARY SANCTION.—The sanction referred to in subsection (a)(2) is as follows:

(1) USE OF AUTHORITIES OF INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—Except as provided in paragraph (2), the President may exercise, in accordance with the provisions of that Act, the authorities of the International Emergency Economic Powers Act with respect to the sanctioned country.

(2) EXCEPTION.—Paragraph (1) does not apply with respect to urgent humanitarian assistance.

**SEC. 1606. WAIVER.**

The President may waive the requirement to impose a sanction described in section 1603, in the case of Iran, or a sanction described in section 1604(b) or 1605(b), in the case of Iraq and Iran, 15 days after the President determines and so reports to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives[6] that it is essential to the national interest of the United States to exercise such waiver authority. Any such report shall provide a specific and detailed rationale for such determination.

**SEC. 1607. REPORTING REQUIREMENT.**

(a) * * * [Repealed—2002][7]

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[6] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

[7] Sec. 1308(g)(1)(C) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1350) repealed subsec. (a), which read as follows:

"(a) ANNUAL REPORT.—Beginning one year after the date of the enactment of this Act, and every 12 months thereafter, the President shall submit to the Committees on Armed Services

(b) REPORT ON INDIVIDUAL TRANSFERS.—Whenever the President determines that a person or foreign government has made a transfer which is subject to any sanction under this title, the President shall, within 30 days after such transfer, submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives [6] a report—

(1) identifying the person or government and providing the details of the transfer; and

(2) describing the actions the President intends to undertake or has undertaken under the provisions of this title with respect to each such transfer.

(c) FORM OF TRANSMITTAL.—Reports required by this section may be submitted in classified as well as in unclassified form.

**SEC. 1608. DEFINITIONS.**

For purposes of this title:

(1) The term "advanced conventional weapons" includes—

(A) such long-range precision-guided munitions, fuel air explosives, cruise missiles, low observability aircraft, other radar evading aircraft, advanced military aircraft, military satellites, electromagnetic weapons, and laser weapons as the President determines destabilize the military balance or enhance offensive capabilities in destabilizing ways;

(B) such advanced command, control, and communications systems, electronic warfare systems, or intelligence collection systems as the President determines destabilize the military balance or enhance offensive capabilities in destabilizing ways; and

(C) such other items or systems as the President may, by regulation, determine necessary for purposes of this title.

(2) The term "cruise missile" means guided missiles that use aerodynamic lift to offset gravity and propulsion to counteract drag.

(3) The term "goods or technology" means—

(A) any article, natural or manmade substance, material, supply, or manufactured product, including inspection and test equipment; and

(B) any information and know-how (whether in tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, or manuals, or in intangible form, such as training or technical services) that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data.

(4) The term "person" means any United States or foreign individual, partnership, corporation, or other form of association, or any of their successor entities, parents, or subsidiaries.

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and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives a report detailing—

"(1) all transfers or retransfers made by any person or foreign government during the preceding 12-month period which are subject to any sanction under this title; and

"(2) the actions the President intends to undertake or has undertaken pursuant to this title with respect to each such transfer.".

(5) The term "sanctioned country" means a country against which sanctions are required to be imposed pursuant to section 1605.

(6) The term "sanctioned person" means a person that makes a transfer described in section 1604(a).

(7) The term "United States assistance" means—

(A)[8] any assistance under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), other than urgent humanitarian assistance or medicine;

(B) sales and assistance under the Arms Export Control Act;

(C) financing by the Commodity Credit Corporation for export sales of agricultural commodities; and

(D) financing under the Export-Import Bank Act.

* * * * * * *

[8] Sec. 1408(c) of Public Law 104–106 (110 Stat. 494) amended and restated subpara. (A), which formerly read as follows:

"(A) any assistance under the Foreign Assistance Act of 1961, other than—

"(i) urgent humanitarian assistance or medicine, and

"(ii) assistance under chapter 11 of part I (as enacted by the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992);".

## u. Chemical and Biological Weapons Control and Warfare Elimination Act of 1991

**Partial text of Public Law 102–182 [H.R. 1724], 105 Stat. 1222, approved December 4, 1991; as amended by Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002**

AN ACT To provide for the termination of the application of title IV of the Trade Act of 1974 to Czechoslovakia and Hungary.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

* * * * * * *

### TITLE III—CONTROL AND ELIMINATION OF CHEMICAL AND BIOLOGICAL WEAPONS

**SEC. 301.[1] SHORT TITLE.**

This title may be cited as the "Chemical and Biological Weapons Control and Warfare Elimination Act of 1991".

**SEC. 302.[2] PURPOSES.**

The purposes of this title are—

(1) to mandate United States sanctions, and to encourage international sanctions, against countries that use chemical or biological weapons in violation of international law or use lethal chemical or biological weapons against their own nationals, and to impose sanctions against companies that aid in the proliferation of chemical and biological weapons;

(2) to support multilaterally coordinated efforts to control the proliferation of chemical and biological weapons;

(3) to urge continued close cooperation with the Australia Group and cooperation with other supplier nations to devise ever more effective controls on the transfer of materials, equipment, and technology applicable to chemical or biological weapons production; and

(4) to require Presidential reports on efforts that threaten United States interests or regional stability by Iran, Iraq, Syria, Libya, and others to acquire the materials and technology to develop, produce, stockpile, deliver, transfer, or use chemical or biological weapons.

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[1] 22 U.S.C. 5601 note. See also title XVII of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 50 U.S.C. 1522–1524) relating to chemical and biological weapons defense, in *Legislation on Foreign Relations Through 2008*, vol. I–B.

[2] 22 U.S.C. 5601.

**SEC. 303.[3] MULTILATERAL EFFORTS.**

(a) MULTILATERAL CONTROLS ON PROLIFERATION.—It is the policy of the United States to seek multilaterally coordinated efforts with other countries to control the proliferation of chemical and biological weapons. In furtherance of this policy, the United States shall—

(1) promote agreements banning the transfer of missiles suitable for armament with chemical or biological warheads;

(2) set as a top priority the early conclusion of a comprehensive global agreement banning the use, development, production, and stockpiling of chemical weapons;

(3) seek and support effective international means of monitoring and reporting regularly on commerce in equipment, materials, and technology applicable to the attainment of a chemical or biological weapons capability; and

(4) pursue and give full support to multilateral sanctions pursuant to United Nations Security Council Resolution 620, which declared the intention of the Security Council to give immediate consideration to imposing "appropriate and effective" sanctions against any country which uses chemical weapons in violation of international law.

(b) MULTILATERAL CONTROLS ON CHEMICAL AGENTS, PRECURSORS, AND EQUIPMENT.—It is also the policy of the United States to strengthen efforts to control chemical agents, precursors, and equipment by taking all appropriate multilateral diplomatic measures—

(1) to continue to seek a verifiable global ban on chemical weapons at the 40 nation Conference on Disarmament in Geneva;

(2) to support the Australia Group's objective to support the norms and restraints against the spread and the use of chemical warfare, to advance the negotiation of a comprehensive ban on chemical warfare by taking appropriate measures, and to protect the Australia Group's domestic industries against inadvertent association with supply of feedstock chemical equipment that could be misused to produce chemical weapons;

(3) to implement paragraph (2) by proposing steps complementary to, and not mutually exclusive of, existing multilateral efforts seeking a verifiable ban on chemical weapons, such as the establishment of—

(A) a harmonized list of export control rules and regulations to prevent relative commercial advantage and disadvantages accruing to Australia Group members,

(B) liaison officers to the Australia Group's coordinating entity from within the diplomatic missions,

(C) a close working relationship between the Australia Group and industry,

(D) a public unclassified warning list of controlled chemical agents, precursors, and equipment,

(E) information-exchange channels of suspected proliferants,

(F) a "denial" list of firms and individuals who violate the Australia Group's export control provisions, and

[3] 22 U.S.C. 5602.

(G) broader cooperation between the Australia Group and other countries whose political commitment to stem the proliferation of chemical weapons is similar to that of the Australia Group; and

(4) to adopt the imposition of stricter controls on the export of chemical agents, precursors, and equipment and to adopt tougher multilateral sanctions against firms and individuals who violate these controls or against countries that use chemical weapons.

**SEC. 304.[4] UNITED STATES EXPORT CONTROLS.**

(a) IN GENERAL.—The President shall—

(1) use the authorities of the Arms Export Control Act to control the export of those defense articles and defense services, and

(2) use the authorities of the Export Administration Act of 1979 to control the export of those goods and technology,

that the President determines would assist the government of any foreign country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons.

(b)[5] EXPORT ADMINISTRATION ACT.—* * *

**SEC. 305. SANCTIONS AGAINST CERTAIN FOREIGN PERSONS.**

(a)[6] AMENDMENT TO EXPORT ADMINISTRATION ACT.—* * *

(b)[7] AMENDMENT TO ARMS EXPORT CONTROL ACT.—* * *

**SEC. 306.[8] DETERMINATIONS REGARDING USE OF CHEMICAL OR BIOLOGICAL WEAPONS.**

(a) DETERMINATION BY THE PRESIDENT.—

(1) WHEN DETERMINATION REQUIRED; NATURE OF DETERMINATION.—Whenever persuasive information becomes available to the executive branch indicating the substantial possibility that,

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[4] 22 U.S.C. 5603.

[5] Subsec. (b) amended sec. 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405); see *Legislation on Foreign Relations Through 2005*, vol. III.

[6] Subsec. (a) added a new sec. 11C to the Export Administration Act of 1979, relating to chemical and biological weapons proliferation sanctions; see *Legislation on Foreign Relations Through 2005*, vol. III.

[7] Subsec. (b) added a new chapter 8 to the Arms Export Control Act; see *Legislation on Foreign Relations Through 2005*, vol. I–A.

[8] 22 U.S.C. 5604. Executive Order 12851 of June 11, 1993 (58 F.R. 33181; June 15, 1993) provided for the administration of proliferation sanctions, Middle East Arms Control, and related Congressional reporting requirements, including the following:

"**Section 1.** *Chemical and Biological Weapons Proliferation and Use Sanctions.* * * *

"(b) *Chemical and Biological Weapons Use.* The authority and duties vested in me by sections 306–308 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (22 U.S.C. 5604–5606) are delegated to the Secretary of State, except that:

"(1) The authority and duties vested in me to restrict certain imports as provided in section 307(b)(2)(D), pursuant to a determination made by the Secretary of State under section 307(b)(1), are delegated to the Secretary of the Treasury.

"(2) The Secretary of State shall issue, transmit to the Congress, and notify the Secretary of the Treasury of, as appropriate, waivers based upon findings made pursuant to section 307(d)(1)(ii).

"(3) The authority and duties vested in me to prohibit certain exports as provided in section 307(a)(5) and section 307(b)(2)(C), pursuant to a determination made by the Secretary of State under section 306(a)(1) and section 307(b)(1), are delegated to the Secretary of Commerce.

"(c) *Coordination Among Agencies.* The Secretaries designated in this section shall exercise all functions delegated to them by this section in consultation with the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, the Secretary of Commerce, the Director of the Arms Control and Disarmament Agency, and other departments and agencies as appropriate, utilizing the appropriate interagency groups prior to any determination to exercise the prohibition authority delegated hereby.".

on or after the date of the enactment of this title, the government of a foreign country has made substantial preparation to use or has used chemical or biological weapons, the President shall, within 60 days after the receipt of such information by the executive branch, determine whether that government, on or after such date of enactment, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals. Section 307 applies if the President determines that that government has so used chemical or biological weapons.

(2) MATTERS TO BE CONSIDERED.—In making the determination under paragraph (1), the President shall consider the following:

(A) All physical and circumstantial evidence available bearing on the possible use of such weapons.

(B) All information provided by alleged victims, witnesses, and independent observers.

(C) The extent of the availability of the weapons in question to the purported user.

(D) All official and unofficial statements bearing on the possible use of such weapons.

(E) Whether, and to what extent, the government in question is willing to honor a request from the Secretary General of the United Nations to grant timely access to a United Nations fact-finding team to investigate the possibility of chemical or biological weapons use or to grant such access to other legitimate outside parties.

(3) DETERMINATION TO BE REPORTED TO CONGRESS.—Upon making a determination under paragraph (1), the President shall promptly report that determination to the Congress. If the determination is that a foreign government had used chemical or biological weapons as described in that paragraph, the report shall specify the sanctions to be imposed pursuant to section 307.

(b) CONGRESSIONAL REQUESTS; REPORT.—

(1) REQUEST.—The Chairman of the Committee on Foreign Relations of the Senate (upon consultation with the ranking minority member of such committee) or the Chairman of the Committee on Foreign Affairs[9] of the House of Representatives (upon consultation with the ranking minority member of such committee) may at any time request the President to consider whether a particular foreign government, on or after the date of the enactment of this title, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals.

(2) REPORT TO CONGRESS.—Not later than 60 days after receiving such a request, the President shall provide to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs[9] of the House of Representatives a written report on the information held by the executive branch which is pertinent to the issue of

[9] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

whether the specified government, on or after the date of the enactment of this title, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals. This report shall contain an analysis of each of the items enumerated in subsection (a)(2).

**SEC. 307.[8, 10] SANCTIONS AGAINST USE OF CHEMICAL OR BIOLOGICAL WEAPONS.**

(a) INITIAL SANCTIONS.—If, at any time, the President makes a determination pursuant to section 306(a)(1) with respect to the government of a foreign country, the President shall forthwith impose the following sanctions:

(1) FOREIGN ASSISTANCE.—The United States Government shall terminate assistance to that country under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance and food or other agricultural commodities or products.

(2) ARMS SALES.—The United States Government shall terminate—

(A) sales to that country under the Arms Export Control Act of any defense articles, defense services, or design and construction services, and

(B) licenses for the export to that country of any item on the United States Munitions List.

(3) ARMS SALES FINANCING.—The United States Government shall terminate all foreign military financing for that country under the Arms Export Control Act.

(4) DENIAL OF UNITED STATES GOVERNMENT CREDIT OR OTHER FINANCIAL ASSISTANCE.—The United States Government shall deny to that country any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, including the Export-Import Bank of the United States.

(5) EXPORTS OF NATIONAL SECURITY-SENSITIVE GOODS AND TECHNOLOGY.—The authorities of section 6 of the Export Administration Act of 1979 (50 U.S.C. 2405) shall be used to prohibit the export to that country of any goods or technology on that part of the control list established under section 5(c)(1) of that Act (22 U.S.C. 2404(c)(1)).

(b) ADDITIONAL SANCTIONS IF CERTAIN CONDITIONS NOT MET.—

(1) PRESIDENTIAL DETERMINATION.—Unless, within 3 months after making a determination pursuant to section 306(a)(1) with respect to a foreign government, the President determines and certifies in writing to the Congress that—

(A) that government is no longer using chemical or biological weapons in violation of international law or using lethal chemical or biological weapons against its own nationals,

(B) that government has provided reliable assurances that it will not in the future engage in any such activities, and

(C) that government is willing to allow on-site inspections by United Nations observers or other internationally

[10] 22 U.S.C. 5605.

recognized, impartial observers, or other reliable means exist, to ensure that that government is not using chemical or biological weapons in violation of international law and is not using lethal chemical or biological weapons against its own nationals,

then the President, after consultation with the Congress, shall impose on that country the sanctions set forth in at least 3 of subparagraphs (A) through (F) of paragraph (2).

(2) SANCTIONS.—The sanctions referred to in paragraph (1) are the following:

(A) MULTILATERAL DEVELOPMENT BANK ASSISTANCE.—The United States Government shall oppose, in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d), the extension of any loan or financial or technical assistance to that country by international financial institutions.

(B) BANK LOANS.—The United States Government shall prohibit any United States bank from making any loan or providing any credit to the government of that country, except for loans or credits for the purpose of purchasing food or other agricultural commodities or products.

(C) FURTHER EXPORT RESTRICTIONS.—The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit exports to that country of all other goods and technology (excluding food and other agricultural commodities and products).

(D) IMPORT RESTRICTIONS.—Restrictions shall be imposed on the importation into the United States of articles (which may include petroleum or any petroleum product) that are the growth, product, or manufacture of that country.

(E) DIPLOMATIC RELATIONS.—The President shall use his constitutional authorities to downgrade or suspend diplomatic relations between the United States and the government of that country.

(F) PRESIDENTIAL ACTION REGARDING AVIATION.—(i)(I) The President is authorized to notify the government of a country with respect to which the President has made a determination pursuant to section 306(a)(1) of his intention to suspend the authority of foreign air carriers owned or controlled by the government of that country to engage in foreign air transportation to or from the United States.

(II) Within 10 days after the date of notification of a government under subclause (I), the Secretary of Transportation shall take all steps necessary to suspend at the earliest possible date the authority of any foreign air carrier owned or controlled, directly or indirectly, by that government to engage in foreign air transportation to or from the United States, notwithstanding any agreement relating to air services.

(ii)(I) The President may direct the Secretary of State to terminate any air service agreement between the United States and a country with respect to which the President

has made a determination pursuant to section 306(a)(1), in accordance with the provisions of that agreement.

(II) Upon termination of an agreement under this clause, the Secretary of Transportation shall take such steps as may be necessary to revoke at the earliest possible date the right of any foreign air carrier owned, or controlled, directly or indirectly, by the government of that country to engage in foreign air transportation to or from the United States.

(iii) The Secretary of Transportation may provide for such exceptions from clauses (i) and (ii) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

(iv) For purposes of this subparagraph, the terms "air transportation", "air carrier", "foreign air carrier", and "foreign air transportation" have the meanings such terms have under section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301).

(c) REMOVAL OF SANCTIONS.—The President shall remove the sanctions imposed with respect to a country pursuant to this section if the President determines and so certifies to the Congress, after the end of the 12-month period beginning on the date on which sanctions were initially imposed on that country pursuant to subsection (a), that—

(1) the government of that country has provided reliable assurances that it will not use chemical or biological weapons in violation of international law and will not use lethal chemical or biological weapons against its own nationals;

(2) that government is not making preparations to use chemical or biological weapons in violation of international law or to use lethal chemical or biological weapons against its own nationals;

(3) that government is willing to allow on-site inspections by United Nations observers or other internationally recognized, impartial observers to verify that it is not making preparations to use chemical or biological weapons in violation of international law or to use lethal chemical or biological weapons against its own nationals, or other reliable means exist to verify that it is not making such preparations; and

(4) that government is making restitution to those affected by any use of chemical or biological weapons in violation of international law or by any use of lethal chemical or biological weapons against its own nationals.

(d) WAIVER.—

(1) CRITERIA FOR WAIVER.—The President may waive the application of any sanction imposed with respect to a country pursuant to this section—

(A) if—

(i) in the case of any sanction other than a sanction specified in subsection (b)(2)(D) (relating to import restrictions) or (b)(2)(E) (relating to the downgrading or

suspension of diplomatic relations), the President determines and certifies to the Congress that such waiver is essential to the national security interests of the United States, and if the President notifies the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs [10] of the House of Representatives of his determination and certification at least 15 days before the waiver takes effect, in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961, or

(ii) in the case of any sanction specified in subsection (b)(2)(D) (relating to import restrictions), the President determines and certifies to the Congress that such waiver is essential to the national security interest of the United States, and if the President notifies the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of his determination and certification at least 15 days before the waiver takes effect; or

(B) if the President determines and certifies to the Congress that there has been a fundamental change in the leadership and policies of the government of that country, and if the President notifies the Congress at least 20 days before the waiver takes effect.

(2) REPORT.—In the event that the President decides to exercise the waiver authority provided in paragraph (1) with respect to a country, the President's notification to the Congress under such paragraph shall include a report fully articulating the rationale and circumstances which led the President to exercise that waiver authority, including a description of the steps which the government of that country has taken to satisfy the conditions set forth in paragraphs (1) through (4) of subsection (c).

(e) CONTRACT SANCTITY.—

(1) SANCTIONS NOT APPLIED TO EXISTING CONTRACTS.—(A) A sanction described in paragraph (4) or (5) of subsection (a) or in any of subparagraphs (A) through (D) of subsection (b)(2) shall not apply to any activity pursuant to any contract or international agreement entered into before the date of the presidential determination under section 306(a)(1) unless the President determines, on a case-by-case basis, that to apply such sanction to that activity would prevent the performance of a contract or agreement that would have the effect of assisting a country in using chemical or biological weapons in violation of international law or in using lethal chemical or biological weapons against its own nationals.

(B) The same restrictions of subsection (p) of section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405), as that subsection is so redesignated by section 304(b) of this title, which are applicable to exports prohibited under section 6 of that Act shall apply to exports prohibited under subsection (a)(5) or (b)(2)(C) of this section. For purposes of this subparagraph, any contract or agreement the performance of which (as

determined by the President) would have the effect of assisting a foreign government in using chemical or biological weapons in violation of international law or in using lethal chemical or biological weapons against its own nationals shall be treated as constituting a breach of the peace that poses a serious and direct threat to the strategic interest of the United States, within the meaning of subparagraph (A) of section 6(p) of that Act.

(2) SANCTIONS APPLIED TO EXISTING CONTRACTS.—The sanctions described in paragraphs (1), (2), and (3) of subsection (a) shall apply to contracts, agreements, and licenses without regard to the date the contract or agreement was entered into or the license was issued (as the case may be), except that such sanctions shall not apply to any contract or agreement entered into or license issued before the date of the presidential determination under section 306(a)(1) if the President determines that the application of such sanction would be detrimental to the national security interests of the United States.

**SEC. 308.** * * * [Repealed—2002] [11]

**SEC. 309. REPEAL OF DUPLICATIVE PROVISIONS.**

(a) REPEAL.—Title V of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138), and the amendments made by that title, are repealed.

(b) REFERENCES TO DATE OF ENACTMENT.—The reference—

(1) in section 11C(a)(1) of the Export Administration Act of 1979, as added by section 305(a) of this Act, to the "date of the enactment of this section",

(2) in section 81(a)(1) of the Arms Export Control Act, as added by section 305(b) of this Act, to the "date of the enactment of this section", and

(3) in section 306(a)(1) of this Act to the "date of the enactment of this title", shall be deemed to refer to the date of the

[11] Formerly at 22 U.S.C. 5606. Sec. 1308(g)(1)(B) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1441) repealed sec. 308, which read as follows:

**"SEC. 308. PRESIDENTIAL REPORTING REQUIREMENTS.**

"(a) REPORTS TO CONGRESS.—Not later than 90 days after the date of the enactment of this title, and every 12 months thereafter, the President shall transmit to the Congress a report which shall include—

"(1) a description of the actions taken to carry out this title, including the amendments made by this title;

"(2) a description of the current efforts of foreign countries and subnational groups to acquire equipment, materials, or technology to develop, produce, or use chemical or biological weapons, together with an assessment of the current and likely future capabilities of such countries and groups to develop, produce, stockpile, deliver, transfer, or use such weapons;

"(3) a description of—

"(A) the use of chemical weapons by foreign countries in violation of international law,

"(B) the use of chemical weapons by subnational groups,

"(C) substantial preparations by foreign countries and subnational groups to do so, and

"(D) the development, production, stockpiling, or use of biological weapons by foreign countries and subnational groups; and

"(4) a description of the extent to which foreign persons or governments have knowingly and materially assisted third countries or subnational groups to acquire equipment, material, or technology intended to develop, produce, or use chemical or biological weapons.

"(b) PROTECTION OF CLASSIFIED INFORMATION.—To the extent practicable, reports submitted under subsection (a) or any other provision of this title should be based on unclassified information. Portions of such reports may be classified.".

enactment of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102–138).[12]

[12] Enacted October 28, 1991.

## v. Executive Orders Concerning Nonproliferation of Weapons of Mass Destruction

### (1) Renunciation of Certain Uses in War of Chemical Herbicides and Riot Control Agents [1]

**Executive Order 11850, April 8, 1975, 40 F.R. 16187, 50 U.S.C. 1511 note**

The United States renounces, as a matter of national policy, first use of herbicides in war except use, under regulations applicable to their domestic use, for control of vegetation within U.S. bases and installations or around their immediate defensive perimeters, and first use of riot control agents in war except in defensive military modes to save lives such as:

(a) Use of riot control agents in riot control situations in areas under direct and distinct U.S. military control, to include controlling rioting prisoners of war.

(b) Use of riot control agents in situations in which civilians are used to mask or screen attacks and civilian casualties can be reduced or avoided.

(c) Use of riot control agents in rescue missions in remotely isolated areas, of downed aircrews and passengers, and escaping prisoners.

(d) Use of riot control agents in rear echelon areas outside the zone of immediate combat to protect convoys from civil disturbances, terrorists and paramilitary organizations.

I have determined that the provisions and procedures prescribed by this Order are necessary to ensure proper implementation and observance of such national policy.

Now, Therefore, by virtue of the authority vested in me as President of the United States of America by the Constitution and laws of the United States and as Commander-in-Chief of the Armed Forces of the United States, it is hereby ordered as follows:

**Section 1.** The Secretary of Defense shall take all necessary measures to ensure that the use by the Armed Forces of the United States of any riot control agents and chemical herbicides in war is prohibited unless such use has Presidential approval, in advance.

[1] See also texts of the Geneva Protocol of 1925 and the Biological Weapons Convention, *Legislation on Foreign Relations Through 2005*, vol. V, sec. F.

**Sec. 2.** The Secretary of Defense shall prescribe the rules and regulations he deems necessary to ensure that the national policy herein announced shall be observed by the Armed Forces of the United States.

NOTE.—Former Executive Order 11902 regarding Procedures for an Export Licensing Policy as to Nuclear Materials and Equipment was repealed by Executive Order 12058.

## (2) Administration of Proliferation Sanctions, Middle East Arms Control, and Related Congressional Reporting Responsibilities

**Executive Order 12851, June 11, 1993, 58 F.R. 33181, 22 U.S.C. 2797 note**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code; sections 1701–1703 of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101–510 (50 U.S.C. App. 2402 note, 2405, 2410b; 22 U.S.C. 2797–2797c); sections 303, 324, and 401–405 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, Public Law 102–138; sections 305–308 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, Public Law 102–182 (50 U.S.C. App. 2410c; 22 U.S.C. 2798, 5604–5606); sections 241 and 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993, Public Law 102–190; and section 1364 of the National Defense Authorization Act for Fiscal Year 1993, Public Law 102–484, I hereby order as follows:

**Section 1.** *Chemical and Biological Weapons Proliferation and Use Sanctions.* (a) *Chemical and Biological Weapons Proliferation.* The authority and duties vested in me by section 81 of the Arms Export Control Act, as amended ("AECA") (22 U.S.C. 2798), and section 11C of the Export Administration Act of 1979, as amended ("EAA") (50 U.S.C. App. 2410c), are delegated to the Secretary of State, except that:

(1) The authority and duties vested in me to deny certain United States Government contracts, as provided in section 81(c)(1)(A) of the AECA and section 11C(c)(1)(A) of the EAA, pursuant to a determination made by the Secretary of State under section 81(a)(1) of the AECA or section 11C(a)(1) of the EAA, as well as the authority and duties vested in me to make the determinations provided for in section 81(c)(2) of the AECA and section 11C(c)(2) of the EAA are delegated to the Secretary of Defense. The Secretary of Defense shall notify the Secretary of the Treasury of determinations made pursuant to section 81(c)(2) of the AECA and section 11(c)(2) of the EAA).

(2) The authority and duties vested in me to prohibit certain imports as provided in section 81(c)(1)(B) of the AECA and section 11C(c)(1)(B) of the EAA, pursuant to a determination made by the Secretary of State under section 81(a)(1) of the AECA or section 11C(a)(1) of the EAA, and the obligation to implement the exceptions provided in section 81(c)(2) of the AECA and section 11C(c)(2) of the EAA, insofar as the exceptions affect imports of goods into the United States, are delegated to the Secretary of the Treasury.

(b) *Chemical and Biological Weapons Use.* The authority and duties vested in me by sections 306–308 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (22 U.S.C. 5604–5606) are delegated to the Secretary of State, except that:

(1) The authority and duties vested in me to restrict certain imports as provided in section 307(b)(2)(D), pursuant to a determination made by the Secretary of States under section 307(b)(1), are delegated to the Secretary of the Treasury.

(2) The Secretary of State shall issue, transmit to the Congress, and notify the Secretary of the Treasury of, as appropriate, waivers based upon findings made pursuant to section 307(d)(1)(A)(ii).

(3) The authority and duties vested in me to prohibit certain exports as provided in section 307(a)(5) and section 307(b)(2)(C), pursuant to a determination made by the Secretary of State under section 306(a)(1) and section 307(b)(1), are delegated to the Secretary of Commerce.

(c) *Coordination Among Agencies.* The Secretaries designated in this section shall exercise all functions delegated to them by this section in consultation with the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, the Secretary of Commerce, the Director of the Arms Control and Disarmament Agency, and other departments and agencies as appropriate, utilizing the appropriate interagency groups prior to any determination to exercise the prohibition authority delegated hereby.

**Sec. 2.** *Missile Proliferation Sanctions.* (a) *Arms Export Control Act.* The authority and duties vested in me by sections 72–73 of the AECA (22 U.S.C. 2797a–2797b) are delegated to the Secretary of State, except that:

(1) The authority and duties vested in me by section 72(a)(1) to make determinations with respect to violations by United States persons of the EAA are delegated to the Secretary of Commerce.

(2) The authority and duties vested in me to deny certain United States Government contracts as provided in sections 73(a)(2)(A)(i) and 73(a)(2)(B)(i), pursuant to a determination made by the Secretary of State under section 73(a)(1), as well as the authority and duties vested in me to make the finding provided in sections 72(c), 73(f), and 73(g)(1), are delegated to the Secretary of Defense. The Secretary of State shall issue, transmit to the Congress, and notify the Secretary of the Treasury of, as appropriate, any waivers based upon findings made pursuant to sections 72(c) and 73(f).

(3) The authority and duties vested in me to prohibit certain imports as provided in section 73(a)(2)(C), pursuant to a determination made by the Secretary of State under that section, and the obligation to implement the exceptions provided in section 73(g), are delegated to the Secretary of the Treasury.

(b) *Export Administration Act.* The authority and duties vested in me by section 11B of the EAA (50 U.S.C. App. 2410b) are delegated to the Secretary of Commerce, except that:

(1) The authority and duties vested in me by sections 11B(a)(1)(A) (insofar as such section authorizes determinations

with respect to violations by United States persons of the AECA), 11B(b)(1) (insofar as such section authorizes determinations regarding activities by foreign persons), and 11B(b)(5) are delegated to the Secretary of State.

(2) The authority and duties vested in me to make the findings provided in sections 11B(a)(3), 11B(b)(6), and 11B(b)(7)(A) are delegated to the Secretary of Defense. The Secretary of Commerce shall issue, transmit to the Congress, and notify the Secretary of the Treasury of, as appropriate, waivers based upon findings made pursuant to section 11B(a)(3). The Secretary of State shall issue, transmit to the Congress, and notify the Secretary of the Treasury of, as appropriate, waivers based upon findings made pursuant to section 11B(b)(6).

(3) The authority and duties vested in me to prohibit certain imports as provided in section 11B(b)(1), pursuant to a determination by the Secretary of State under that section, and the obligation to implement the exceptions provided in section 11B(b)(7), are delegated to the Secretary of the Treasury.

(c) *Reporting Requirements.* The authority and duties vested in me to make certain reports to the Congress as provided in section 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 and section 1364 of the National Defense Authorization Act for Fiscal Year 1993 are delegated to the Secretary of State.

(d) *Coordination Among Agencies.* The Secretaries designated in this section shall exercise all functions delegated to them by this section in consultation with the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, the Secretary of Commerce, the Director of the Arms Control and Disarmament Agency, and other departments and agencies as appropriate, utilizing the appropriate interagency groups prior to any determination to exercise the prohibition authority delegated hereby.

**Sec. 3.** *Arms Control in the Middle East.* The certification and reporting functions vested in me by sections 403 and 404 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, are delegated to the Secretary of State. The Secretary of State shall exercise these functions in consultation with the Secretary of Defense and other agencies as appropriate.

**Sec. 4.** *China and Weapons Proliferation.* The reporting functions regarding China and weapons proliferation vested in me by sections 303(a)(2) and 324 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, are delegated to the Secretary of State. The Secretary of State shall exercise these functions in consultation with the Secretary of Defense and other agencies as appropriate.

**Sec. 5.** *Arrow Tactical Anti-Missile Program.* The authority and duties vested in me to make certain certifications as provided by section 241(b)(3)(C) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 are delegated to the Secretary of State.

**Sec. 6.** *Delegations.*[1] The functions delegated herein may be redelegated as appropriate. Regulations necessary to carry out the functions delegated herein may be issued as appropriate.

**Sec. 7.** *Priority.* This order supercedes the Memorandum of the President, "Delegation of Authority Regarding Missile Technology Proliferation," June 25, 1991. To the extent that this order is inconsistent with any provisions of any prior Executive order or Presidential memorandum, this order shall control.

[1] Invoking his powers pursuant to the International Emergency Economic Powers Act, the President issued Executive Order 13222 (66 F.R. 44025; August 22, 2001) on August 17, 2001, in response to the imminent expiration of the Export Administration Act of 1979 on August 20, 2001. In Executive Order 13222, the President ordered that the provisions of the Act and its administration, and all regulations issued to carry out the provisions of the Act, should continue in full force and effect to the extent permitted by law. Executive Order 13222 incorporated the delegations of authority in Executive Order 12851, among others, into Executive Order 13222, and applied such delegations to the exercise of authority under Executive Order 13222.

## (3) Proliferation of Weapons of Mass Destruction

**Executive Order 12938, November 14, 1994, 59 F.R. 59099, 50 U.S.C. 1701 note; as amended by Executive Order 13094, July 28, 1998, 63 F.R. 40803; Executive Order 13128, June 25, 1999, 64 F.R. 34701; and Executive Order 13382, June 28, 2005, 70 F.R. 38567**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), the Arms Export Control Act, as amended (22 U.S.C. 2751 *et seq.*), Executive Orders Nos. 12851 and 12924, and section 301 of title 3, United States Code,

I, WILLIAM J. CLINTON, President of the United States of America, find that the proliferation of nuclear, biological, and chemical weapons ("weapons of mass destruction") and of the means of delivering such weapons, constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and hereby declare a national emergency to deal with that threat.[1]

Accordingly, I hereby order:

**Section 1.** *International Negotiations.* It is the policy of the United States to lead and seek multilaterally coordinated efforts with other countries to control the proliferation of weapons of mass destruction and the means of delivering such weapons. Accordingly, the Secretary of State shall cooperate in and lead multilateral efforts to stop the proliferation of weapons of mass destruction and their means of delivery.

**Sec. 2.** *Imposition of Controls.* As provided herein, the Secretary of State and the Secretary of Commerce shall use their respective authorities, including the Arms Export Control Act and the International Emergency Economic Powers Act, to control any exports, to the extent they are not already controlled by the Department of

[1] The President continued this national emergency in a notice of November 8, 1995 (60 F.R. 57137; November 13, 1995); a notice of November 12, 1996 (61 F.R. 58309; November 13, 1996); a notice of November 12, 1997 (62 F.R. 60993; November 13, 1997); a notice of November 12, 1998 (63 F.R. 63589; November 13, 1998); a notice of November 10, 1999 (64 F.R. 61767; November 12, 1999); a notice of November 9, 2000 (65 F.R. 68063; November 13, 2000); a notice of November 9, 2001 (66 F.R. 56965; November 13, 2001); a notice of November 6, 2002 (67 F.R. 68493; November 12, 2002); a notice of October 29, 2003 (68 F.R. 62209; October 31, 2003); a notice of November 4, 2004 (69 F.R. 64637; November 8, 2004); a notice of October 25, 2005 (70 F.R. 62027; October 27, 2005); a notice of October 27, 2006 (71 F.R. 64109; October 31, 2006); a notice of November 8, 2007 (72 F.R. 63963; November 13, 2007); and a notice of November 10, 2008 (73 F.R. 67097; November 12, 2008).

Consistent with sec. 204(c) of the International Emergency Economic Powers Act (Public Law 95–223; 91 Stat. 1627; 50 U.S.C. 1703(c)) and sec. 401(c) of the National Emergencies Act (Public Law 94–412; 90 Stat. 1257; 50 U.S.C. 1641(c)), the President presents a semi-annual report to Congress concerning this national emergency. In sec. 1(a)(14) of Executive Order 13313 of July 31, 2003 (68 F.R. 46073; August 5, 2003), the President assigned this reporting duty to the Secretary of State.

Energy and the Nuclear Regulatory Commission, that either Secretary determines would assist a country in acquiring the capability to develop, produce, stockpile, deliver, or use weapons of mass destruction or their means of delivery. The Secretary of State shall pursue early negotiations with foreign governments to adopt effective measures comparable to those imposed under this order.

**Sec. 3.** *Department of Commerce Controls.* (a) The Secretary of Commerce shall prohibit the export of any goods, technology, or services subject to the Secretary's export jurisdiction that the Secretary of Commerce determines, in consultation with the Secretary of State, the Secretary of Defense, and other appropriate officials, would assist a foreign country in acquiring the capability to develop, produce, stockpile, deliver, or use weapons of mass destruction or their means of delivery. The Secretary of State shall pursue early negotiations with foreign governments to adopt effective measures comparable to those imposed under this section.

(b) Subsection (a) of this section will not apply to exports relating to a particular category of weapons of mass destruction (i.e., nuclear, chemical, or biological weapons) if their destination is a country with whose government the United States has entered into a bilateral or multilateral arrangement for the control of that category of weapons of mass destruction-related goods (including delivery systems) and technology, or maintains domestic export controls comparable to controls that are imposed by the United States with respect to that category of goods and technology, or that are otherwise deemed adequate by the Secretary of State.

(c) The Secretary of Commerce shall require validated licenses to implement this order and shall coordinate any license applications with the Secretary of State and the Secretary of Defense.

(d) The Secretary of Commerce, in consultation with the Secretary of State, shall take such actions, including the promulgation of rules, regulations, and amendments thereto, as may be necessary to continue to regulate the activities of United States persons in order to prevent their participation in activities that could contribute to the proliferation of weapons of mass destruction or their means of delivery, as provided in the Export Administration Regulations, set forth in Title 15, Chapter VII, Subchapter C, of the Code of Federal Regulations, Parts 768 to 799 inclusive.

(e)[2] The Secretary of Commerce shall impose and enforce such restrictions on the importation of chemicals into the United States as may be necessary to carry out the requirements of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction.

**Sec. 4.**[3] *Measures Against Foreign Persons.*

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[2] Sec. 8 of Executive Order 13128 (64 F.R. 34704; June 28, 1999) added subsec. (e).

[3] Sec. 1(a) of Executive Order 13094 (63 F.R. 40803; July 30, 1998) amended and restated sec. 4. It previously read as follows:

"**Sec. 4.** *Sanctions Against Foreign Persons.* (a) In addition to the sanctions imposed on foreign persons as provided in the National Defense Authorization Act for Fiscal Year 1991 and the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, sanctions also shall be imposed on a foreign person with respect to chemical and biological weapons proliferation if the Secretary of State determines that the foreign person on or after the effective date of this order or its predecessor, Executive Order No. 12735 of November 16, 1990, knowingly and materially contributed to the efforts of any foreign country, project, or entity to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

"(b) No department or agency of the United States Government may procure, or enter into any contract for the procurement of, any goods or services from any foreign person described

(a)[3] Determination by Secretary of State; Imposition of Measures. Except to the extent provided in section 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)), where applicable, if the Secretary of State, in consultation with the Secretary of the Treasury, determines that a foreign person, on or after November 16, 1990, the effective date of Executive Order 12735, the predecessor order to Executive Order 12938, has engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer, or use such items, by any person or foreign country of proliferation concern, the measures set forth in subsections (b), (c), and (d) of this section shall be imposed on that foreign person to the extent determined by the Secretary of State, in consultation with the implementing agency and other relevant agencies. Nothing in this section is intended to preclude the imposition on that foreign person of other measures or sanctions available under this order or under other authorities.

(b) *Procurement Ban.* No department or agency of the United States Government may procure, or enter into any contract for the procurement of, any goods, technology, or services from any foreign person described in subsection (a) of this section.

(c) *Assistance Ban.* No department or agency of the United States Government may provide any assistance to any foreign person described in subsection (a) of this section, and no such foreign person shall be eligible to participate in any assistance program of the United States Government.

(d) *Import Ban.* The Secretary of the Treasury shall prohibit the importation into the United States of goods, technology, or services produced or provided by any foreign person described in subsection (a) of this section, other than information or informational materials within the meaning of section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)).

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in subsection (a) of this section. The Secretary of the Treasury shall prohibit the importation into the United States of products produced by that foreign person.

"(c) Sanctions pursuant to this section may be terminated or not imposed against foreign persons if the Secretary of States determines that there is reliable evidence that the foreign person concerned has ceased all activities referred to in subsection (a).

"(d) The Secretary of State and the Secretary of the Treasury may provide appropriate exemptions for procurement contracts necessary to meet U.S. operational military requirements or requirements under defense production agreements, sole source suppliers, spare parts, components, routine servicing and maintenance of products, and medical and humanitarian items. They may provide exemptions for contracts in existence on the date of this order under appropriate circumstances.".

Sec. 4 of Executive Order 13382 (70 F.R. 38567; July 1, 2005) subsequently amended and restated the catchline of sec. 4 and the text of sec. 4(a). It previously read as follows:

"**Sec. 4.** *Measures Against Foreign Persons.*

"(a) Determination by Secretary of State; Imposition of Measures. Except to the extent provided in section 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)), where applicable, if the Secretary of State determines that a foreign person, on or after November 16, 1990, the effective date of executive Order 12735, the predecessor order to Executive Order 12938, has materially contributed or attempted to contribute materially to the efforts of any foreign country, project, or entity of proliferation concern to use, acquire, design, develop, produce, or stockpile weapons of mass destruction or missiles capable of delivering such weapons, the measures set forth in subsections (b), (c), and (d) of this section shall be imposed on that foreign person to the extent determined by the Secretary of State in consultation with the implementing agency and other relevant agencies. Nothing in this section is intended to preclude the imposition on that foreign person of other measures or sanctions available under this order or under other authorities.".

(e) *Termination.* Measures pursuant to this section may be terminated against a foreign person if the Secretary of State determines that there is reliable evidence that such foreign person has ceased all activities referred to in subsection (a) of this section.

(f) *Exceptions.* Departments and agencies of the United States Government, acting in consultation with the Secretary of State, may, by license, regulation, order, directive, exception, or otherwise, provide for:

(i) Procurement contracts necessary to meet U.S. operational military requirements of requirements under defense production agreements; intelligence requirements; sole source suppliers, spare parts, components, routine servicing and maintenance of products for the United States Government; and medical and humanitarian items; and

(ii) Performance pursuant to contracts in force on the effective date of this order under appropriate circumstances.

**Sec. 5.** *Sanctions Against Foreign Countries.* (a) In addition to the sanctions imposed on foreign countries as provided in the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, sanctions also shall be imposed on a foreign country as specified in subsection (b) of this section, if the Secretary of State determines that the foreign country has, on or after the effective date of this order or its predecessor, Executive Order No. 12735 of November 16, 1990, (1) used chemical or biological weapons in violation of international law; (2) made substantial preparations to use chemical or biological weapons in violation of international law; or (3) developed, produced, stockpiled, or otherwise acquired chemical or biological weapons in violation of international law.

(b) The following sanctions shall be imposed on any foreign country identified in subsection (a)(1) of this section unless the Secretary of State determines, on grounds of significant foreign policy or national security, that any individual sanction should not be applied. The sanctions specified in this section may be made applicable to the countries identified in subsections (a)(2) or (a)(3) when the Secretary of State determines that such action will further the objectives of this order pertaining to proliferation. The sanctions specified in subsection (b)(2) below shall be imposed with the concurrence of the Secretary of the Treasury.

(1) *Foreign Assistance.* No assistance shall be provided to that country under the Foreign Assistance Act of 1961, or any successor act, or the Arms Export Control Act, other than assistance that is intended to benefit the people of that country directly and that is not channeled through governmental agencies or entities of that country.

(2) *Multilateral Development Bank Assistance.* The United States shall oppose any loan or financial or technical assistance to that country by international financial institutions in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d).

(3) *Denial of Credit or Other Financial Assistance.* The United States shall deny to that country any credit or financial assistance by any department, agency, or instrumentality of the United States Government.

(4) *Prohibition of Arms Sales.* The United States Government shall not, under the Arms Export Control Act, sell to that country any defense articles or defense services or issue any license for the export of items on the United States Munitions List.

(5) *Export of National Security-Sensitive Goods and Technology.* No exports shall be permitted of any goods or technologies controlled for national security reasons under the Export Administration Regulations.

(6) *Further Export Restrictions.* The Secretary of Commerce shall prohibit or otherwise substantially restrict exports to that country of goods, technology, and services (excluding agricultural commodities and products otherwise subject to control).

(7) *Import Restrictions.* Restrictions shall be imposed on the importation into the United States of articles (that may include petroleum or any petroleum product) that are the growth, product, or manufacture of that country.

(8) *Landing Rights.* At the earliest practicable date, the Secretary of State shall terminate, in a manner consistent with international law, the authority of any air carrier that is controlled in fact by the government of that country to engage in air transportation (as defined in section 101(10) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(10)).

**Sec. 6.** *Duration.* Any sanctions imposed pursuant to sections 4 or 5 of this order shall remain in force until the Secretary of State determines that lifting any sanction is in the foreign policy or national security interests of the United States or, as to sanctions under section 4 of this order, until the Secretary has made the determination under section 4(e).[4]

**Sec. 7.** *Implementation.* The Secretary of State, the Secretary of the Treasury, and the Secretary of Commerce are hereby authorized and directed to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of this order. These actions, and in particular those in sections 4 and 5 of this order, shall be made in consultation with the Secretary of Defense and, as appropriate, other agency heads and shall be implemented in accordance with procedures established pursuant to Executive Order No. 12851. The Secretary concerned may redelegate any of these functions to other officers in agencies of the Federal Government. All heads of departments and agencies of the United States Government are directed to take all appropriate measures within their authority to carry out the provisions of this order, including the suspension or termination of licenses or other authorizations.

**Sec. 8.** *Preservation of Authorities.* Nothing in this order is intended to affect the continued effectiveness of any rules, regulations, orders licenses, or other forms of administrative action issued, taken, or continued in effect heretofore or hereafter under the authority of the International Emergency Economic Powers Act, the Export Administration Act, the Arms Export Control Act, the Nuclear Non-proliferation Act, Executive Order No. 12730 of

[4] Sec. 1(b) of Executive Order 13094 (63 F.R. 40804; July 30, 1998) struck out "4(c)" and inserted in lieu thereof "4(e)".

September 30, 1990, Executive Order No. 12735 of November 16, 1990, Executive Order No. 12924 of August 18, 1994, and Executive Order No. 12930 of September 29, 1994.

**Sec. 9.** *Judicial Review.* This order is not intended to create, nor does it create, any right or benefit, substantive or procedural, enforceable at law by party against the United States, its agencies, officers, or any other person.

**Sec. 10.** *Revocation of Executive Orders Nos. 12735 and 12930.* Executive Orders No. 12735 of November 16, 1990, and Executive Order No. 12930 of September 29, 1994, are hereby revoked.

**Sec. 11.** *Effective Date.* This order is effective immediately.

This order shall be transmitted to the Congress and published in the Federal Register.

## (4) Implementation of the Chemical Weapons Convention and the Chemical Weapons Convention Implementation Act

**Executive Order 13128, June 25, 1999, 64 F.R. 34703, 22 U.S.C. 6711 note**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Chemical Weapons Convention Implementation Act of 1998 (as enacted in Division I of Public Law 105–277) (the Act), the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), and section 301 of title 3, United States Code, and in order to facilitate implementation of the Act, and the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (the "Convention"), it is hereby ordered as follows:

**Section 1.** The Department of State shall be the United States National Authority (the "USNA") for purposes of the Act and the Convention.

**Sec. 2.** The USNA shall coordinate the implementation of the provisions of the Act and the Convention with an interagency group consisting of the Secretary of Defense, the Attorney General, the Secretary of Commerce, the Secretary of Energy, and the heads of such other agencies or departments, or their designees, I may consider necessary or advisable.

**Sec. 3.** The Departments of State and Commerce, and other agencies as appropriate, each shall issue, amend, or revise regulations, orders, or directives as necessary to implement the Act and U.S. obligation under Article VI and related provisions of the Convention. Regulations under section 401(a) of the Act shall be issued by the Department of Commerce by a date specified by the USNA, which shall review and approve these regulations, in coordination with the interagency group designated in section 2 of this order, prior to their issuance.

**Sec. 4.** The Secretary of Commerce is authorized:

(a) to obtain and execute warrants pursuant to section 305 of the Act for the purposes of conducting inspections of facilities subject to the regulations issued by the Department of Commerce pursuant to section 3 of this order;

(b) to suspend or revoke export privileges pursuant to section 211 of the Act; and

(c) to carry out all functions with respect to proceedings under section 501(a) of the Act and to issue regulations with respect thereto, except for those functions that the Act specifies are to be performed by the Secretary of State or the USNA.

**Sec. 5.** The Departments of State, Defense, Commerce, and Energy, and other agencies as appropriate, are authorized to carry out, consistent with the Act and in accordance with subsequent directives, appropriate functions that are not otherwise assigned in

the Act and are necessary to implement the provisions of the Convention and the Act.

**Sec. 6.** The Departments of State, Defense, Commerce, and Energy, and other agencies, as appropriate, are authorized to provide assistance to facilities not owned or operated by the U.S. Government, or contracted for use by or for the U.S. Government, in meeting reporting requirements and in preparing the facilities for possible inspection pursuant to the Convention.

**Sec. 7.** The USNA, in coordination with the interagency group designated in section 2 of this order, is authorized to determine whether the disclosure of confidential business information pursuant to section 404(c) of the Act is in the national interest. Disclosure will not be permitted if contrary to national security or law enforcement needs.

**Sec. 8.** In order to take additional steps with respect to the proliferation of weapons of mass destruction and means of delivering them and the national emergency described and declared in Executive Order 12938 of November 14, 1994, as amended by Executive Order 13094 of July 30, 1998, section 3 of Executive Order 12938, as amended, is amended, to add a new subsection (e) to read as follows: * * *

**Sec. 9.** Any investigation emanating from a possible violation of this order, or of any license, order, or regulation issued pursuant to this order, involving or revealing a possible violation of 18 U.S.C. section 229 shall be referred to the Federal Bureau of Investigation (FBI), which shall coordinate with the referring agency and other appropriate agencies. The FBI shall timely notify the referring agency and other appropriate agencies of any action it takes on such referrals.

**Sec. 10.** Nothing in this order shall create and right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

**Sec. 11.** (a) This order shall take effect at 12:01 a.m. eastern daylight time, June 26, 1999.

(b) This order shall be transmitted to the Congress and published in the Federal Register.

## (5) Blocking Property of the Government of the Russian Federation Relating to the Disposition of Highly Enriched Uranium Extracted From Nuclear Weapons

**Executive Order 13159, June 21, 2000, 65 F.R. 39279, 50 U.S.C. 1701 note**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), and section 301 of title 3, United States Code.

I, WILLIAM J. CLINTON, President of the United States of America, in view of the policies underlying Executive Order 12938 of November 14, 1994, and Executive Order 13085 of May 26, 1998, find that the risk of nuclear proliferation created by the accumulation of a large volume of weapons-usable fissile material in the territory of the Russian Federation constitutes an unusual and extraordinary threat to the national security and foreign policy of the United States, and hereby declare a national emergency to deal with that threat.[1]

I hereby order:

**Section 1.** A major national security goal of the United States is to ensure that fissile material removed from Russian nuclear weapons pursuant to various arms control and disarmament agreements is dedicated to peaceful uses, subject to transparency measures, and protected from diversion to activities of proliferation concern. As reflected in Executive Order 13085, the full implementation of the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993, and related contracts and agreements (collectively, the "HEU Agreements") is essential to the attainment of this goal. The HEU Agreements provide for the conversion of approximately 500 metric tons of highly enriched uranium contained in Russian nuclear weapons into low-enriched uranium for use as fuel in commercial nuclear reactors.

[1] The President continued this national emergency in a notice of June 11, 2001 (66 F.R. 32207; June 14, 2001); a notice of June 18, 2002 (67 F.R. 42181; June 20, 2002); a notice of June 10, 2003 (68 F.R. 35149; June 12, 2003); a notice of June 16, 2004 (69 F.R. 34047; June 18, 2004); a notice of June 17, 2005 (70 F.R. 35507; June 20, 2005); a notice of June 19, 2006 (71 F.R. 35489; June 20, 2006); a notice of June 19, 2007 (72 F.R. 34159; June 20, 2007); and a notice of June 18, 2008 (73 F.R. 35335; June 20, 2008).

Consistent with sec. 204(c) of the International Emergency Economic Powers Act (Public Law 95–223; 91 Stat. 1627; 50 U.S.C. 1703(c)) and sec. 401(c) of the National Emergencies Act (Public Law 94–412; 90 Stat. 1257; 50 U.S.C. 1641(c)), the President presents a semi-annual report to Congress concerning this national emergency. In sec. 1(b)(3) of Executive Order 13313 of July 31, 2003 (68 F.R. 46073; August 5, 2003), the President assigned this reporting duty to the Secretary of the Treasury.

In furtherance of our national security goals, all heads of departments and agencies of the United States Government shall continue to take all appropriate measures within their authority to further the full implementation of the HEU Agreements.

**Sec. 2.** Government of the Russian Federation assets directly related to the implementation of the HEU Agreements currently may be subject to attachment, judgment, decree, lien, execution, garnishment, or other judicial process, thereby jeopardizing the full implementation of the HEU Agreements to the detriment of U.S. foreign policy. In order to ensure the preservation and proper and complete transfer to the Government of the Russian Federation of all payments due to it under the HEU Agreements, and except to the extent provided in regulations, orders, directives, or licenses that may hereafter be issued pursuant to this order, all property and interests in property of the Government of the Russian Federation directly related to the implementation of the HEU Agreements that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches, are hereby blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in. Unless licensed or authorized pursuant to this order, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property or interest in property blocked pursuant to this order.

**Sec. 3.** For the purposes of this order: (a) The term "person" means an individual or entity;

(b) The term "entity" means a partnership, association, trust, joint venture, corporation, or other organization;

(c) The term "United States person" means any United States citizen; permanent resident alien; juridical person organized under the laws of the United States or any jurisdiction within the United States, including foreign branches; or any person in the United States; and

(d) The term "Government of the Russian Federation" means the Government of the Russian Federation, any political subdivision, agency, or instrumentality thereof, and any person owned or controlled by, or acting for or on behalf of, the Government of the Russian Federation.

**Sec. 4.** (a) The Secretary of the Treasury, in consultation with the Secretary of State, the Secretary of Energy, and, as appropriate, other agencies, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to me by IEEPA, as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government. All agencies of the United States Government are hereby directed to take all appropriate measures within their statutory authority to carry out the provisions of this order.

(b) Nothing contained in this order shall relieve a person from any requirement to obtain a license or other authorization from any department or agency of the United States Government in

compliance with applicable laws and regulations subject to the jurisdiction of the department or agency.

**Sec. 5.** This order is not intended to create, nor does it create, any right, benefit, or privilege, substantive or procedural, enforceable at law by a party against the United States, its agencies, officers, or any other person.

**Sec. 6.** (a) This order is effective at 12:01 a.m. eastern daylight time on June 22, 2000.

(b) This order shall be transmitted to the Congress and published in the Federal Register.

## (6) Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters

**Executive Order 13382, June 28, 2005, 70 F.R. 38567, 50 U.S.C. 1701 note**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 et seq.), and section 301 of title 3, United States Code,

I, George W. Bush, President of the United States of America, in order to take additional steps with respect to the national emergency described and declared in Executive Order 12938 of November 14, 1994, regarding the proliferation of weapons of mass destruction and the means of delivering them, and the measures imposed by that order, as expanded by Executive Order 13094 of July 28, 1998, hereby order:

**Section 1.** (a) Except to the extent provided in section 203(b)(1), (3), and(4) of IEEPA (50 U.S.C. 1702(b)(1), (3), and (4)), or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order, all property and interests in property of the following persons, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(i) the persons listed in the Annex to this order;

(ii)[1] any foreign person determined by the Secretary of State,[2] in consultation with the Secretary of the Treasury, the Attorney General, and other relevant agencies, to have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by any person or foreign country of proliferation concern;

[1] In Public Notice 5739 dated March 28, 2007 (72 F.R. 15930; April 3, 2007), the Assistant Secretary of State for International Security and Nonproliferation designated an Iranian entity, the Defense Industries Organization (DIO) under para. (ii), effective March 30, 2007. In Public Notice 6301 dated July 7, 2008 (72 F.R. 42401; July 21, 2008), the Acting Under Secretary of State for Arms Control and International Security designated two Iranian persons, Rahim Safavi and Mohsen Fakhrizadeh, and one entity, the TAMAS Company under para. (ii), effective July 8, 2008.

[2] In Delegation of Authority 295 dated November 14, 2006 (71 F.R. 67702; November 22, 2006), the Secretary of State delegated the functions conferred on the Secretary of State in Executive Order 13382 to the Under Secretary of State for Arms Control and International Security.

(iii) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to have provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, any activity or transaction described in paragraph (a)(ii) of this section, or any person whose property and interests in property are blocked pursuant to this order; and

(iv) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order.

(b) Any transaction or dealing by a United States person or within the United States in property or interests in property blocked pursuant to this order is prohibited, including, but not limited to, (i) the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of, any person whose property and interests in property are blocked pursuant to this order, and (ii) the receipt of any contribution or provision of funds, goods, or services from any such person.

(c) Any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this order is prohibited. (d) Any conspiracy formed to violate the prohibitions set forth in this order is prohibited.

**Sec. 2.** For purposes of this order:

(a) the term "person" means an individual or entity;

(b) the term "entity" means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization; and

(c) the term "United States person" means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

**Sec. 3.** I hereby determine that the making of donations of the type of articles specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by, to, or for the benefit of, any person whose property and interests in property are blocked pursuant to this order would seriously impair my ability to deal with the national emergency declared in Executive Order 12938, and I hereby prohibit such donations as provided by section 1 of this order.

**Sec. 4.** Section 4(a) of Executive Order 12938, as amended,[3] is further amended * * *

**Sec. 5.** For those persons whose property and interests in property are blocked pursuant to section 1 of this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render these measures ineffectual. I therefore determine that for these measures to be effective in addressing the

[3] Executive Order 12938, as amended, can be found at page 363 of this volume.

national emergency declared in Executive Order 12938, as amended, there need be no prior notice of a listing or determination made pursuant to section 1 of this order.

**Sec. 6.** The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government, consistent with applicable law. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order and, where appropriate, to advisethe Secretary of the Treasury in a timely manner of the measures taken.

**Sec. 7.** The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to determine, subsequent to the issuance of this order, that circumstances no longer warrant the inclusion of a person in the Annex to this order and that the property and interests in property of that person are therefore no longer blocked pursuant to section 1 of this order.

**Sec. 8.** This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, instrumentalities, or entities, its officers or employees, or any other person.

**Sec. 9.** (a) This order is effective at 12:01 a.m. eastern daylight time on June 29, 2005.

(b) This order shall be transmitted to the Congress and published in the Federal Register.

## ANNEX

Korea Mining Development Trading Corporation
Tanchon Commercial Bank
Korea Ryonbong General Corporation
Aerospace Industries Organization
Shahid Hemmat Industrial Group
Shahid Bakeri Industrial Group
Atomic Energy Organization of Iran
Scientific Studies and Research Center

## (7) Implementation of the Protocol Additional to the Agreement Between the United States and the International Atomic Energy Agency for the Application of Safeguards in the United States of America

**Executive Order 13458, February 4, 2008, 73 F.R. 7181**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the United States Additional Protocol Implementation Act (the "Act") (Public Law 109–401) and section 301 of title 3, United States Code, and in order to facilitate implementation of the Act and the Protocol Additional to the Agreement between the United States and the International Atomic Energy Agency for the Application of Safeguards in the United States of America (the "Additional Protocol"), it is hereby ordered as follows:

**Section 1.** The Secretaries of State, Defense, Commerce, and Energy, the Attorney General, the Nuclear Regulatory Commission, and heads of such other agencies as appropriate, each shall issue, amend, or revise, and enforce such regulations, orders, directives, instructions, or procedures as are necessary to implement the Act and United States obligations under the Additional Protocol.

**Sec. 2.** The Secretary of Commerce, with the assistance, as necessary, of the Attorney General, is authorized to obtain and to execute warrants pursuant to section 223 of the Act for the purpose of gaining complementary access to locations subject to regulations issued by the Department of Commerce pursuant to section 1 of this order.

**Sec. 3.** The Secretaries of State, Defense, Commerce, and Energy, the Attorney General, the Nuclear Regulatory Commission, and heads of such other departments and agencies as appropriate, are authorized to carry out, consistent with the Act and in accordance with subsequent directives, appropriate functions that are not otherwise assigned in the Act and are necessary to implement the Act and United States obligations under the Additional Protocol. The Secretary of State shall perform the function of providing notifications or information to the Congress when required by the Act.

**Sec. 4.** This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

**Sec. 5.** This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its departments, agencies, instrumentalities, or entities, its officers, employees, or agents, or any other person.

## w. Nuclear Non-Proliferation Act of 1978 and Related Materials

### (1) Nuclear Non-Proliferation Act of 1978

**Partial text of Public Law 95–242 [H.R. 8638], 92 Stat. 120, approved March 10, 1978; as amended by Public Law 99–661 [National Defense Authorization Act for Fiscal Year 1987; S. 2638], 100 Stat. 3816, approved November 11, 1986; Public Law 103–236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103–437 [U.S.C. Technical Amendments; H.R. 4777], 108 Stat. 4581, approved November 2, 1994; Public Law 105–277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; and Public Law 106–113 [H.R. 3194], 113 Stat. 1301, approved November 29, 1999**

NOTE.—Sections of this Act that have been omitted amended the Atomic Energy Act of 1954. See the appropriate sections of the 1954 Act beginning on page 403 for the text of these omitted sections.

AN ACT To provide for more efficient and effective control over the proliferation of nuclear explosive capability.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Nuclear Non-Proliferation Act of 1978."

STATEMENT OF POLICY

SEC. 2.[1] The Congress finds and declares that the proliferation of nuclear explosive devices or of the direct capability to manufacture or otherwise acquire such devices poses a grave threat to the security interests of the United States and to continued international progress toward world peace and development. Recent events emphasize the urgency of this threat and the imperative need to increase the effectiveness of international safeguards and controls on peaceful nuclear activities to prevent proliferation. Accordingly, it is the policy of the United States to—

(a) actively pursue through international initiatives mechanisms for fuel supply assurances and the establishment of more effective international controls over the transfer and use of nuclear materials and equipment and nuclear technology for peaceful purposes in order to prevent proliferation, including the establishment of common international sanctions;

[1] 22 U.S.C. 3201.

(b) take such actions as are required to confirm the reliability of the United States in meeting its commitments to supply nuclear reactors and fuel to nations which adhere to effective non-proliferation policies by establishing procedures to facilitate the timely processing of requests for subsequent arrangements and export licenses;

(c) strongly encourage nations which have not ratified the Treaty on the Non-Proliferation of Nuclear Weapons to do so at the earliest possible date;[2] and

(d) cooperate with foreign nations in identifying and adapting suitable technologies for energy production and, in particular, to identify alternative options to nuclear power in aiding such nations to meet their energy needs, consistent with the economic and material resources of those nations and environmental protection.

STATEMENT OF PURPOSE

SEC. 3.[3] It is the purpose of this Act to promote the policies set forth above by—

(a) establishing a more effective framework for international cooperation to meet the energy needs of all nations and to ensure that the worldwide development of peaceful nuclear activities and the export by any nation of nuclear materials and equipment and nuclear technology intended for use in peaceful nuclear activities do not contribute to proliferation;

(b) authorizing the United States to take such actions as are required to ensure that it will act reliably in meeting its commitment to supply nuclear reactors and fuel to nations which adhere to effective non-proliferation policies;

(c) providing incentives to the other nations of the world to join in such international cooperative efforts and to ratify the Treaty; and

(d) ensuring effective controls by the United States over its exports of nuclear materials and equipment and of nuclear technology.

DEFINITIONS

SEC. 4.[4] (a) As used in this Act, the term—

(1) "Commission" means the Nuclear Regulatory Commission;

(2)[4] "IAEA" means International Atomic Energy Agency;

(3)[4] "nuclear materials and equipment" means source material, special nuclear material, production facilities, utilization facilities, and components, items or substances determined to

[2] This policy was reiterated by Congress in sec. 507 of the International Development Cooperation Act of 1979 (Public Law 96–53; 93 Stat. 378) (see *Legislation on Foreign Relations Through 2005*, vol. I–A). Sec. 507(b), which was repealed in 1981, also called for a report (submitted to Congress on November 19, 1979) from the Secretary of State, on steps taken by the Department of State to encourage nations which are not parties to the treaty to become parties.

[3] 22 U.S.C. 3202.

[4] 22 U.S.C. 3203. Sec. 1225(e)(1) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–775) struck out para. (2), which referred to the Director of the Arms Control and Disarmament Agency, and renumbered paras. (3) through (8) as paras. (2) through (7).

have significance for nuclear explosive purposes pursuant to subsection 109 b. of the 1954 Act;

(4)[4] "physical security measures" means measures to reasonably ensure that source or special nuclear material will only be used for authorized purpose and to prevent theft and sabotage;

(5)[4] "sensitive nuclear technology" means any information (including information incorporated in a production or utilization facility or important component part thereof) which is not available to the public and which is important to the design, construction, fabrication, operation or maintenance of a uranium enrichment or nuclear fuel reprocessing facility or a facility for the production of heavy water, but shall not include Restricted Data controlled pursuant to chapter 12 of the 1954 Act;

(6)[4] "1954 Act" means the Atomic Energy Act of 1954, as amended; and

(7)[4] "the Treaty" means the Treaty on the Non-Proliferation of Nuclear Weapons.[5]

(b) All other terms used in this Act not defined in this section shall have the meanings ascribed to them by the 1954 Act, the Energy Reorganization Act of 1974, and the Treaty.

## TITLE I—UNITED STATES INITIATIVES TO PROVIDE ADEQUATE NUCLEAR FUEL SUPPLY

### POLICY

SEC. 101.[6] The United States, as a matter of national policy, shall take such actions and institute such measures as may be necessary and feasible to assure other nations and groups of nations that may seek to utilize the benefits of atomic energy for peaceful purposes that it will provide a reliable supply of nuclear fuel to those nations and groups of nations which adhere to policies designed to prevent proliferation. Such nuclear fuel shall be provided under agreements entered into pursuant to section 161 of the 1954 Act or as otherwise authorized by law. The United States shall ensure that it will have available the capacity on a long-term basis to enter into new fuel supply commitments consistent with its nonproliferation policies and domestic energy needs. The Commission shall, on a timely basis, authorize the export of nuclear materials and equipment when all the applicable statutory requirements are met.

### URANIUM ENRICHMENT CAPACITY

SEC. 102.[7] The Secretary of Energy is directed to initiate construction planning and design, construction, and operation activities for expansion of uranium enrichment capacity, as elsewhere provided by law. Further the Secretary as well as the Nuclear Regulatory Commission and the Secretary of State[8] are directed to es-

[5] See *Legislation on Foreign Relations Through 2005*, vol. V, sec. L, for text of treaty.
[6] 22 U.S.C. 3221.
[7] 22 U.S.C. 3222.
[8] Sec. 1225(e)(2) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–775) struck out ", the Secretary of State, and

tablish and implement procedures which will ensure to the maximum extent feasible, consistent with this Act, orderly processing of subsequent arrangements and export licenses with minimum time delay.

REPORT

SEC. 103. The President shall promptly undertake a study to determine the need for additional United States enrichment capacity to meet domestic and foreign needs and to promote United States nonproliferation objectives abroad. The President shall report to the Congress on the results of this study within twelve months after the date of enactment of this Act.

INTERNATIONAL UNDERTAKINGS

SEC. 104.[9] (a) Consistent with section 105 of this Act, the President shall institute prompt discussions with other nations and groups of nations, including both supplier and recipient nations, to develop international approaches for meeting future worldwide nuclear fuel needs. In particular, the President is authorized and urged to seek to negotiate as soon as practicable with nations possessing nuclear fuel production facilities or source material, and such other nations and groups of nations, such as the IAEA, as may be deemed appropriate, with a view toward the timely establishment of binding international undertakings providing for—

(1) the establishment of an international nuclear fuel authority (INFA) with responsibility for providing agreed upon fuel services and allocating agreed upon quantities of fuel resources to ensure fuel supply on reasonable terms in accordance with agreements between INFA and supplier and recipient nations;

(2) a set of conditions consistent with subsection (d) under which international fuel assurances under INFA auspices will be provided to recipient nations, including conditions which will ensure that the transferred materials will not be used for nuclear explosive devices;

(3) devising, consistent with the policy goals set forth in section 403 of this Act, feasible and environmentally sound approaches for the siting, development, and management under effective international auspices and inspection of facilities for the provision of nuclear fuel services, including the storage of special nuclear material;

(4) the establishment of repositories for the storage of spent nuclear reactor fuel under effective international auspices and inspection;

(5) the establishment of arrangements under which nations placing spent fuel in such repositories would receive appropriate compensation for the energy content of such spent fuel if recovery of such energy content is deemed necessary or desirable; and

(6) sanctions for violation of the provisions of or for abrogation of such binding international undertakings.

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the Director of the Arms Control and Disarmament Agency" and inserted in lieu thereof "and the Secretary of State".

[9] 22 U.S.C. 3223.

(b) The President shall submit to Congress not later than six months after the date of enactment of this Act proposals for initial fuel assurances, including creation of an interim stockpile of uranium enriched to less than 20 percent in the uranium isotope 235 (low-enriched uranium) to be available for transfer pursuant to a sales arrangement to nations which adhere to strict policies designed to prevent proliferation when and if necessary to ensure continuity of nuclear fuel supply to such nations. Such submission shall include proposals for the transfer of low-enriched uranium up to an amount sufficient to produce 100,000 MWe years of power from light water nuclear reactors, and shall also include proposals for seeking contributions from other supplier nations to such an interim stockpile pending the establishment of INFA.

(c) The President shall, in the report required by section 103, also address the desirability of and options for foreign participation, including investment, in new United States uranium enrichment facilities. This report shall also address the arrangements that would be required to implement such participation and the commitments that would be required as a condition of such participation. This report shall be accompanied by any proposed legislation to implement these arrangements.

(d) The fuel assurances contemplated by this section shall be for the benefit of nations that adhere to policies designated to prevent proliferation. In negotiating the binding international undertakings called for in this section, the President shall, in particular, seek to ensure that the benefits of such undertakings are available to non-nuclear-weapon states only if such states accept IAEA safeguards on all their peaceful nuclear activities, do not manufacture or otherwise acquire any nuclear explosive device, do not establish any new enrichment or reprocessing facilities under their de facto or de jure control, and place any such existing facilities under effective international auspices and inspection.

(e) The report required by section 601 shall include information on the progress made in any negotiations pursuant to this section.

(f)(1) The President may not enter into any binding international undertaking negotiated pursuant to subsection (a) which is not a treaty until such time as such proposed undertaking has been submitted to the Congress and has been approved by concurrent resolution.

(2) The proposals prepared pursuant to subsection (b) shall be submitted to the Congress as part of an annual authorization Act for the Department of Energy.

REEVALUATION OF NUCLEAR FUEL CYCLE

SEC. 105.[10] The President shall take immediate initiatives to invite all nuclear supplier and recipient nations to reevaluate all aspects of the nuclear fuel cycle, with emphasis on alternatives to an economy based on the separation of pure plutonium or the presence of high enriched uranium, methods to deal with spent fuel storage, and methods to improve the safeguards for existing nuclear tech-

[10] 22 U.S.C. 3224.

nology. The President shall, in the first report required by section 601, detail the progress of such international reevaluation.

## TITLE II—UNITED STATES INITIATIVES TO STRENGTHEN THE INTERNATIONAL SAFEGUARDS SYSTEM

### POLICY

SEC. 201.[11] The United States is committed to continued strong support for the principles of the Treaty on the Non-Proliferation of Nuclear Weapons, to a strengthened and more effective International Atomic Energy Agency and to a comprehensive safeguards system administered by the Agency to deter proliferation. Accordingly, the United States shall seek to act with other nations to—

(a) continue to strengthen the safeguards program of the IAEA and, in order to implement this section, contribute funds, technical resources, and other support to assist the IAEA in effectively implementing safeguards;

(b) ensure that the IAEA has the resources to carry out the provisions of article XII of the Statute of the IAEA;

(c) improve the IAEA safeguards system (including accountability) to ensure—

(1) the timely detection of a possible diversion of sources of special nuclear materials which could be used for nuclear explosive devices;

(2) the timely dissemination of information regarding such diversion; and

(3) the timely implementation of internationally agreed procedures in the event of such diversion;

(d) ensure that the IAEA receives on a timely basis the data needed for it to administer an effective and comprehensive international safeguards program and that the IAEA provides timely notice to the world community of any evidence of a violation of any safeguards agreement to which it is a party; and

(e) encourage the IAEA, to the maximum degree consistent with the Statute, to provide nations which supply nuclear materials and equipment with the data needed to assure such nations of adherence to bilateral commitments applicable to such supply.

### TRAINING PROGRAM

SEC. 202.[12] The Department of Energy, in consultation with the Commission, shall establish and operate a safeguards and physical security training program to be made available to persons from nations and groups of nations which have developed or acquired, or may be expected to develop or acquire, nuclear materials and equipment for use for peaceful purposes. Any such program shall include training in the most advanced safeguards and physical security techniques and technology, consistent with the national security interests of the United States.

[11] 22 U.S.C. 3241.
[12] 22 U.S.C. 3242.

NEGOTIATIONS

SEC. 203.[13] The United States shall seek to negotiate with other nations and groups of nations to—

(1) adopt general principles and procedures, including common international sanctions, to be followed in the event that a nation violates any material obligation with respect to the peaceful use of nuclear materials and equipment or nuclear technology, or in the event that any nation violates the principles of the Treaty, including the detonation by a non-nuclear-weapon state of a nuclear explosive device; and

(2) establish international procedures to be followed in the event of diversion, theft, or sabotage of nuclear materials or sabotage of nuclear facilities, and for recovering nuclear materials that have been lost or stolen, or obtained or used by a nation or by any person or group in contravention of the principles of the Treaty.

## TITLE III—EXPORT ORGANIZATION AND CRITERIA

* * * * * * *

EXPORT LICENSING PROCEDURES

SEC. 304. (a)[14] * * *

(b)[15] Within one hundred and twenty days of the date of enactment of this Act, the Commission shall, after consultations with the Secretary of State, promulgate regulations establishing procedures (1) for the granting, suspending, revoking, or amending of any nuclear export license or exemption pursuant to its statutory authority; (2) for public participation in nuclear export licensing proceedings when the Commission finds that such participation will be in the public interest and will assist the Commission in making the statutory determinations required by the 1954 Act, including such public hearings and access to information as the Commission deems appropriate: *Provided,* That judicial review as to any such finding shall be limited to the determination of whether such finding was arbitrary and capricious; (3) for a public written Commission opinion accompanied by the dissenting or separate views of any Commissioner, in those proceedings where one or more Commissioners have dissenting or separate views on the issuance of an export license; and (4) for public notice of Commission proceedings and decisions, and for recording of minutes and votes of the Commission: *Provided further,* That until the regulations required by this subsection have been promulgated, the Commission shall implement the provisions of this Act under temporary procedures established by the Commission.

(c)[15] The procedures to be established pursuant to subsection (b) shall constitute the exclusive basis for hearings in nuclear export licensing proceedings before the Commission and, notwithstanding section 189 a. of the 1954 Act, shall not require the Commission to grant any person an on-the-record hearing in such a proceeding.

[13] 22 U.S.C. 3243.
[14] Subsec. (a) added a new sec. 126 to the 1954 Act regarding export licensing procedures.
[15] 42 U.S.C. 2155a.

(d)[16] Within sixty days of the date of enactment of this Act, the Commission shall, in consultation with the Secretary of State, the Secretary of Energy and the Secretary of Defense,[17] promulgate (and may from time to time amend) regulations establishing the levels of physical security which in its judgment are no less strict than those established by any international guidelines to which the United States subscribes and which in its judgment will provide adequate protection for facilities and material referred to in paragraph (3) of section 127 of the 1954 Act taking into consideration variations in risks to security as appropriate.

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COMPONENT AND OTHER PARTS OF FACILITIES

SEC. 309. (a)[18] * * *

(b)[19] The Commission, not later than one hundred and twenty days after the date of the enactment of this Act, shall publish regulations to implement the provisions of subsections b. and c. of section 109 of the 1954 Act. Among other things, these regulations shall provide for the prior consultation by the Commission with the Department of State, the Department of Energy, the Department of Defense, and the Department of Commerce.[20]

(c)[19] The President, within not more than one hundred and twenty days after the date of enactment of this Act, shall publish procedures regarding the control by the Department of Commerce, over all export items, other than those licensed by the Commission, which could be, if used for purposes other than those for which the export is intended, of significance for nuclear explosive purposes. Among other things, these procedures shall provide for prior consultations[21] by the Department of Commerce with the Department of State,[22] the Commission, the Department of Energy, and the Department of Defense.

(d) The amendments to section 109 of the 1954 Act made by this section shall not affect the approval of exports contracted for prior to November 1, 1977, which are made within one year of the date of enactment of such amendments.

## TITLE IV—NEGOTIATION OF FURTHER EXPORT CONTROLS

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[16] 42 U.S.C. 2156a.

[17] Sec. 1225(e)(3) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–775) struck out "the Secretary of Defense, and the Director," and inserted in lieu thereof "and the Secretary of Defense,".

[18] Subsec. (a) amended sec. 109 of the 1954 Act.

[19] 42 U.S.C. 2139a. The procedures referred to in subsec. (c) were issued on June 1, 1978. For text, see *Legislation on Foreign Relations Through 2005*, vol. V, sec. L.

[20] Sec. 1225(e)(4)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–775) struck out "the Department of Commerce, and the Arms Control and Disarmament Agency" and inserted in lieu thereof "and the Department of Commerce".

[21] Sec. 714(b) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 498), struck out ", as required," following "prior consultations".

[22] Sec. 1225(e)(4)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–775) struck out "the Arms Control and Disarmament Agency," at this point.

ADDITIONAL REQUIREMENTS

SEC. 402.[23] (a) Except as specifically provided in any agreement for cooperation, no source or special nuclear material hereafter exported from the United States may be enriched after export without the prior approvals of the United States for such enrichment: *Provided,* That the procedures governing such approval shall be identical to those set forth for the approval of proposed subsequent arrangements under section 131 of the 1954 Act, and any commitments from the recipient which the Secretary of Energy and the Secretary of State deem necessary to ensure that such approval will be obtained prior to such enrichment shall be obtained prior to the submission of the executive branch judgment regarding the export in question and shall be set forth in such submission: *And provided further,* That no source or special nuclear material shall be exported for the purpose of enrichment or reactor fueling to any nation or group of nations which has, after the date of enactment of this Act, entered into a new or amended agreement for cooperation with the United States, except pursuant to such agreement.

(b) In addition to other requirements of law, no major critical component of any uranium enrichment, nuclear fuel reprocessing, or heavy water production facility shall be exported under any agreement for cooperation (except an agreement for cooperation pursuant to subsection 91 c., 144 b., or 144 c. of the 1954 Act) unless such agreement for cooperation specifically designates such components as items to be exported pursuant to the agreement for cooperation. For purposes of this subsection, the term "major critical component" means any component part or group of component parts which the President determines to be essential to the operation of a complete uranium enrichment, nuclear fuel reprocessing, or heavy water production facility.

PEACEFUL NUCLEAR ACTIVITIES

SEC. 403.[24] The President shall take immediate and vigorous steps to seek agreement from all nations and groups of nations to commit themselves to adhere to the following export policies with respect to their peaceful nuclear activities and their participation in international nuclear trade:

(a) No nuclear materials and equipment and no sensitive nuclear technology within the territory of any nation or group of nations, under its jurisdiction, or under its control anywhere will be transferred to the jurisdiction of any other nation or group of nations unless the nation or group of nations receiving such transfer commits itself to strict undertakings including, but not limited to, provisions sufficient to ensure that—

(1) no nuclear materials and equipment and no nuclear technology in, under the jurisdiction of, or under the control of any non-nuclear-weapon state, shall be used for nuclear explosive devices for any purpose or for research on or development of nuclear explosives devices for any purpose, except as permitted by Article V, the Treaty;

[23] 42 U.S.C. 2153a. The procedures mentioned in the first proviso were issued June 1, 1978. For text, see *Legislation on Foreign Relations Through 2005*, vol. V, sec. L.

[24] 42 U.S.C. 2153b.

(2) IAEA safeguards will be applied to all peaceful nuclear activities in, under the jurisdiction of, or under the control of any non-nuclear-weapon state;

(3) adequate physical security measure will be established and maintained by any nation or group of nations on all of its nuclear activities;

(4) no nuclear materials and equipment and no nuclear technology intended for peaceful purposes in, under the jurisdiction of, or under the control of any nation or group of nations shall be transferred to the jurisdiction of any other nation or group of nations which does not agree to stringent undertakings meeting the objectives of this section; and

(5) no nation or group of nations will assist, encourage, or induce any non-nuclear-weapon state to manufacture or otherwise acquire any nuclear explosive device.

(b)(1) No source or special nuclear material within the territory of any nation or group of nations, under its jurisdiction, or under its control anywhere will be enriched (as described in paragraph aa. (2) of section 11 of the 1954 Act) or reprocessed, no irradiated fuel elements containing such material which are to be removed from a reactor will be altered in form or content, and no fabrication or stockpiling involving plutonium, uranium 233, or uranium enriched to greater than 20 percent in the isotope 235 shall be performed except in a facility under effective international auspices and inspection, and any such irradiated fuel elements shall be transferred to such a facility as soon as practicable after removal from a reactor consistent with safety requirements. Such facilities shall be limited in number to the greatest extent feasible and shall be carefully sited and managed so as to minimize the proliferation and environmental risks associated with such facilities. In addition, there shall be conditions to limit the access of non-nuclear-weapon states other than the host country to sensitive nuclear technology associated with such facilities.

(2) Any facilities within the territory of any nation or group of nations, under its jurisdiction, or under its control anywhere for the necessary short-term storage of fuel elements containing plutonium, uranium 233, or uranium enriched to greater than 20 percent in the isotope 235 prior to placement in a reactor or of irradiated fuel elements prior to transfer as required in subparagraph (1) shall be placed under effective international auspices and inspection.

(c) Adequate physical security measures will be established and maintained with respect to all nuclear activities within the territory of each nation and group of nations, under its jurisdiction, or under its control anywhere, and with respect to any international shipment of significant quantities of source or special nuclear material or irradiated source or special nuclear material, which shall also be conducted under international safeguards.

(d) Nothing in this section shall be interpreted to require international control or supervision of any United States military activities.

RENEGOTIATION OF AGREEMENTS FOR COOPERATION

SEC. 404.[25] (a) The President shall initiate a program immediately to renegotiate agreements for cooperation in effect on the date of enactment of this Act, or otherwise to obtain the agreement of parties to such agreements for cooperation to the undertakings that would be required for new agreements under the 1954 Act. To the extent that an agreement for cooperation in effect on the date of enactment of this Act with a cooperating party contains provisions equivalent to any or all of the criteria set forth in section 127 of the 1954 Act with respect to materials and equipment transferred pursuant thereto or with respect to any special nuclear material used in or produced through the use of any such material or equipment, any renegotiated agreement with that cooperating party shall continue to contain an equivalent provision with respect to such transferred materials and equipment and such special nuclear material. To the extent that an agreement for cooperation in effect on the date of enactment of this Act with a cooperating party does not contain provisions with respect to any nuclear materials and equipment which have previously been transferred under an agreement for cooperation with the United States and which are under the jurisdiction or control of the cooperating party and with respect to any special nuclear material which is used in or produced through the use thereof and which is under the jurisdiction or control of the cooperating party, which are equivalent to any or all of those required for new and amended agreements for cooperation under section 123 a. of the 1954 Act, the President shall vigorously seek to obtain the application of such provisions with respect to such nuclear materials and equipment and such special nuclear material. Nothing in this Act or in the 1954 Act shall be deemed to relinquish any rights which the United States may have under any agreement for cooperation in force on the date of enactment of this Act.

(b) The President shall annually review each of requirements (1) through (9) set forth for inclusion in agreements for cooperation under section 123 a. of the 1954 Act and the export policy goals set forth in section 401 to determine whether it is in the interest of United States non-proliferation objectives for any such requirements or export policies which are not already being applied as export criteria to be enacted as additional export criteria.

(c) If the President proposed enactment of any such requirements or export policies as additional export criteria or to take any other action with respect to such requirements or export policy goals for the purpose of encouraging adherence by nations and groups of nations to such requirements and policies, he shall submit such a proposal together with an explanation thereof to the Congress.

(d) If the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs[26] of the House of Representatives, after reviewing the President's annual report or any proposed legis-

[25] 42 U.S.C. 2153c.

[26] Sec. 15(g) of Public Law 103–437 (108 Stat. 4593) struck out "International Relations" and inserted in lieu thereof "Foreign Affairs". Subsequently, sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

lation, determines that it is in the interest of the United States non-proliferation objectives to take any action with respect to such requirements or export policy goals, it shall report a joint resolution to implement such determination. Any joint resolution so reported shall be considered in the Senate and the House of Representatives, respectively, under applicable procedures provided for the consideration of resolutions pursuant to subsection 130 b. through g. of the 1954 Act.

AUTHORITY TO CONTINUE AGREEMENTS

SEC. 405.[27] (a) The amendments to section 123 of the 1954 Act made by this Act shall not affect the authority to continue cooperation pursuant to agreements for cooperation entered into prior to the date of enactment of this Act.

(b) Nothing in this Act shall affect the authority to include dispute settlement provisions, including arbitration, in any agreement made pursuant to an Agreement for Cooperation.

REVIEW

SEC. 406.[28] No court or regulatory body shall have any jurisdiction under any law to compel the performance of or to review the adequacy of the performance of any Nuclear Proliferation Assessment Statement, or any annexes thereto,[29] called for in this Act or in the 1954 Act.

PROTECTION OF THE ENVIRONMENT

SEC. 407.[30] The President shall endeavor to provide in any agreement entered into pursuant to section 123 of the 1954 Act for cooperation between the parties in protecting the international environment from radioactive, chemical or thermal contamination arising from peaceful nuclear activities.

## TITLE V—UNITED STATES ASSISTANCE TO DEVELOPING COUNTRIES

POLICY; REPORT

SEC. 501.[31] The United States shall endeavor to cooperate with other nations, international institutions, and private organizations in establishing programs to assist in the development of non-nuclear energy resources, to cooperate with both developing and industrialized nations in protecting the international environment

[27] 42 U.S.C. 2153d.

[28] 42 U.S.C. 2160a.

[29] Sec. 1225(e)(5) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–775) inserted ", or any annexes thereto," after "Statement".

[30] 42 U.S.C. 2153e. Sec. 1913 of Public Law 95–630 (92 Stat. 3727) provided:

"SEC. 1913. No environmental rule, regulation, or procedure shall become effective with regard to exports subject to the provisions of 22 U.S.C. 3201 et seq., the Nuclear Non-Proliferation Act of 1978, until such time as the President has reported to Congress on the progress achieved pursuant to section 407 of the Act (42 U.S.C. 2153e) entitled 'Protection of the Environment' which requires the President to seek to provide, in agreements required under the Act, for cooperation between the parties in protecting the environment from radioactive, chemical or thermal contaminations arising from peaceful nuclear activities.".

[31] 22 U.S.C. 3261.

from contamination arising from both nuclear and non-nuclear energy activities, and shall seek to cooperate with and aid developing countries in meeting their energy needs through the development of such resources and the application of non-nuclear technologies consistent with the economic factors, the material resources of those countries, and environmental protection. The United States shall additionally seek to encourage other industrialized nations and groups of nations to make commitments for similar cooperation and aid to developing countries. The President shall report annually to Congress on the level of other nations' and groups of nations' commitments under such program and the relation of any such commitments to United States efforts under this title. In cooperating with and providing such assistance to developing countries, the United States shall give priority to parties to the Treaty.

PROGRAMS

SEC. 502.[32] (a) The United States shall initiate a program, consistent with the aims of section 501, to cooperate with developing countries for the purpose of—

(1) meeting the energy needs required for the development of such countries;

(2) reducing the dependence of such countries on petroleum fuels, with emphasis given to utilizing solar and other renewable energy resources; and

(3) expanding the energy alternatives to such countries.

(b) Such program shall include cooperation in evaluating the energy alternatives of developing countries, facilitating international trade in energy commodities, developing energy resources, and applying suitable energy technologies. The program shall include both general and country-specific energy assessments and co-operative projects in resource exploration and production, training, research and development.

(c) As an integral part of such program, the Department of Energy, under the general policy guidance of the Department of State and in cooperation with the Agency for International Development and other Federal agencies as appropriate, shall initiate, as soon as practicable, a program for the exchange of United States scientists, technicians, and energy experts with those of developing countries to implement the purposes of this section.

(d) For the purposes of carrying out this section, there is authorized to be appropriated such sums as are contained in annual authorization Acts for the Department of Energy, including such sums which have been authorized for such purposes under previous legislation.

(e) Under the direction of the President, the Secretary of State shall ensure the coordination of the activities authorized by this title with other related activities of the United States conducted abroad, including the programs authorized by sections 103(c), 106(a)(2), and 119 of the Foreign Assistance Act of 1961.[33]

[32] 22 U.S.C. 3262.

[33] For text, see *Legislation on Foreign Relations Through 2005*, vol. I–A. Sec. 119 of the Foreign Assistance Act of 1961 was repealed in 1980.

REPORT

SEC. 503.[34] Not later than twelve months after the date of enactment of this Act, the President shall report to the Congress on the feasibility of expanding the cooperative activities established pursuant to section 502(c) into an international cooperative effort to include a scientific peace corps designed to encourage large numbers of technically trained volunteers to live and work in developing countries for varying periods of time for the purpose of engaging in projects to aid in meeting the energy needs of such countries through the search for and utilization of indigenous energy resources and the application of suitable technology, including the widespread utilization of renewable and unconventional energy technologies. Such report shall also include a discussion of other mechanisms to conduct a coordinated international effort to develop, demonstrate, and encourage the utilization of such technologies in developing countries.

## TITLE VI—EXECUTIVE REPORTING

REPORTS OF THE PRESIDENT

SEC. 601.[35] (a) The President shall review all activities of Government departments and agencies relating to preventing proliferation and shall make a report[36] to Congress in January of 1979 and annually in January of each year thereafter on the Government's efforts to prevent proliferation. This report shall include but not be limited to—

(1) a description of the progress made toward—

(A) negotiating the initiatives contemplated in sections 104 and 105 of this Act;

(B) negotiating the international arrangements or other mutual undertakings contemplated in section 403 of this Act;

(C) encouraging non-nuclear-weapon states that are not party to the Treaty to adhere to the Treaty or, pending such adherence, to enter into comparable agreements with respect to safeguards and to foreswear the development of any nuclear explosive devices, and discouraging nuclear exports to non-nuclear-weapon states which have not taken such steps;

(D) strengthening the safeguards of the IAEA as contemplated in section 201 of this Act; and

(E) renegotiating agreements for cooperation as contemplated in section 404(a) of this Act;

(2) an assessment of the impact of the progress described in paragraph (1) on the non-proliferation policy of the United States; an explanation of the precise reasons why progress has not been made on any particular point and recommendations with respect to appropriate measures to encourage progress; and a statement of what legislative modifications, if any, are

[34] 22 U.S.C. 3262 note.

[35] 22 U.S.C. 3281.

[36] In sec. 1(a)(5) of Executive Order 13313 of July 31, 2003 (68 F.R. 46073; August 5, 2003), the President assigned the reporting duties in subsec. (a) to the Secretary of State.

necessary in his judgment to achieve the non-proliferation policy of the United States;

(3) a determination as to which non-nuclear-weapon states with which the United States has an agreement for cooperation in effect or under negotiation, if any, have—

(A) detonated a nuclear device; or

(B) refused to accept the safeguards of the IAEA on all of their peaceful nuclear activities; or

(C) refused to give specific assurances that they will not manufacture or otherwise acquire any nuclear explosive device; or

(D) engaged in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices;

(4) an assessment of whether any of the policies set forth in this Act have, on balance, been counterproductive from the standpoint of preventing proliferation;[37]

(5) a description of the progress made toward establishing procedures to facilitate the timely processing of requests for subsequent arrangements and export licenses in order to enhance the reliability of the United States in meeting its commitments to supply nuclear reactors and fuel to nations which adhere to effective non-proliferation policies;[37]

(6)[37] a description of the implementation of nuclear and nuclear-related dual use export controls in the preceding calendar year, including a summary by type of commodity and destination of—

(A) all transactions for which—

(i) an export license was issued for any good controlled under section 309(c) of this Act;

(ii) an export license was issued under section 109 b. of the 1954 Act;

(iii) approvals were issued under the Export Administration Act of 1979, or section 109 b.(3) of the 1954 Act, for the retransfer of any item, technical data, component, or substance; or

(iv) authorizations were made as required by section 57 b.(2) of the 1954 Act to engage, directly or indirectly, in the production of special nuclear material;

(B) each instance in which—

(i) a sanction has been imposed under section 821(a) or section 824 of the Nuclear Proliferation Prevention Act of 1994 or section 102(b)(1) of the Arms Export Control Act;

(ii) sales or leases have been denied under section 3(f) of the Arms Export Control Act or transactions prohibited by reason of acts relating to proliferation of nuclear explosive devices as described in section 40(d) of that Act;

[37] Sec. 811(1) of the Nuclear Proliferation Prevention Act of 1994 (title VIII of Public Law 103–236; 108 Stat. 507) struck out "and" after the semicolon in para. (4), and sec. 811(2) of that Act struck out the period at the end of para. 5 and inserted in lieu thereof a semicolon. Sec. 811(3) added para. (6) and a concluding paragraph for subsec. (a) following para. (6).

(iii) a sanction has not been imposed by reason of section 821(c)(2) of the Nuclear Proliferation Prevention Act of 1994 or the imposition of a sanction has been delayed under section 102(b)(4) of the Arms Export Control Act; or

(iv) a waiver of a sanction has been made under—

(I) section 821(f) or section 824 of the Nuclear Proliferation Prevention Act of 1994,

(II) section 620E(d) of the Foreign Assistance Act of 1961, or paragraph (5) or (6)(B) of section 102(b) of the Arms Export Control Act,

(III) section 40(g) of the Arms Export Control Act with respect to the last sentence of section 40(d) of that Act, or

(IV) section 614 of the Foreign Assistance Act of 1961 with respect to section 620E of that Act or section 3(f), the last sentence of section 40(d), or 102(b)(1) of the Arms Export Control Act; and

(C) the progress of those independent states of the former Soviet Union that are non-nuclear-weapon states and of the Baltic states towards achieving the objective of applying full scope safeguards to all their peaceful nuclear activities.

Portions of the information required by paragraph (6) may be submitted in classified form, as necessary. Any such information that may not be published or disclosed under section 12(c)(1) of the Export Administration Act of 1979 shall be submitted as confidential.[37]

(b) In the first report required by this section, the President shall analyze each civil agreement for cooperation negotiated pursuant to section 123 of the 1954 Act, and shall discuss the scope and adequacy of the requirements and obligations relating to safeguards and other controls therein.

ADDITIONAL REPORTS

SEC. 602.[38] (a) The annual reports to the Congress by the Commission and the Department of Energy which are otherwise required by law shall also include views and recommendations regarding the policies and actions of the United States to prevent proliferation which are the statutory responsibility of those agencies. The Department's report shall include a detailed analysis of the proliferation implications of advanced enrichment and reprocessing techniques, advanced reactors, and alternative nuclear fuel cycles. This part of the report shall include a comprehensive version which includes any relevant classified information and a summary unclassified version.

(b) The reporting requirements of this title are in addition to and not in lieu of any other reporting requirements under applicable law.

[38] 22 U.S.C. 3282.

(c)[39] (1) The Department of State, the Department of Defense, the Department of Commerce, the Department of Energy, the Commission, and, with regard to subparagraph (B), the Director of Central Intelligence, shall keep the Committees on Foreign Relations and Governmental Affairs of the Senate and the Committee on International Relations of the House of Representatives fully and currently informed with respect to—

(A) their activities to carry out the purposes and policies of this Act and to otherwise prevent proliferation, including the proliferation of nuclear, chemical, or biological weapons, or their means of delivery; and

(B) the current activities of foreign nations which are of significance from the proliferation standpoint.

(2) For the purposes of this subsection with respect to paragraph (1)(B), the phrase "fully and currently informed" means the transmittal of credible information not later than 60 days after becoming aware of the activity concerned.

(d) Any classified portions of the reports required by this Act shall be submitted to the Senate Foreign Relations Committee and the House International Relations Committee.

(e) Three years after enactment of this Act, the Comptroller General shall complete a study and report to the Congress on the implementation and impact of this Act on the nuclear non-proliferation policies, purposes, and objectives of this Act. The Secretaries of State, Energy, Defense, and Commerce and the Commission[40] shall cooperate with the Comptroller General in the conduct of the study. The report shall contain such recommendations as the Comptroller General deems necessary to support the nuclear non-proliferation policies, purposes, and objectives of this Act.

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[39] Sec. 1131 of the National Security and Corporate Fairness under the Biological Weapons Convention Act (chapter 2 of title XI of H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113 (113 Stat. 1536) amended and restated subsec. (c). It formerly read as follows:

"(c) The Department of State, the Department of Defense, the Department of Commerce, the Department of Energy, and the Commission shall keep the Committees on Foreign Relations and Governmental Affairs of the Senate and the Committee on International Relations of the House of Representatives fully and currently informed with respect to their activities to carry out the purposes and policies of this Act and to otherwise prevent proliferation, and with respect to the current activities of foreign nations which are of significance from the proliferation standpoint.".

Sec. 1134 of that Act, furthermore, provided the following:

"**SEC. 1134. PROVISION OF CERTAIN INFORMATION TO CONGRESS.**

"(a) REQUIREMENT TO PROVIDE INFORMATION.—The head of each department and agency described in section 602(c) of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3282(c)) shall promptly provide information to the chairman and ranking minority member of the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives in meeting the requirements of subsection (c) of (d) of section 602 of such Act.

"(b) ISSUANCE OF DIRECTIVES.—Not later than February 1, 2000, the Secretary of State, the Secretary of Defense, the Secretary of Commerce, the Secretary of Energy, the Director of Central Intelligence, and the Chairman of the Nuclear Regulatory Commission shall issue directives, which shall provide access to information, including information contained in special access programs, to implement their responsibilities under subsections c) and (d) of section 602 of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3282(c) and (d)). Copies of such directives shall be forwarded promptly to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives upon the issuance of the directives.".

[40] Sec. 1225(e)(6)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–775) struck out "and the Director" at this point.

(f)[41] (1) The Secretary of Defense shall have access, on a timely basis, to all information regarding nuclear proliferation matters which the Secretary of State or the Secretary of Energy has or is entitled to have. Such access shall include access to all communications, materials, documents, and records relating to nuclear proliferation matters.

(2) This subsection does not apply to any intradepartmental document of the Department of State or the Department of Energy, or any portion of such document, that is solely concerned with internal, confidential advice on policy concerning the conduct of interagency deliberations on nuclear proliferation matters.

SAVING CLAUSE

SEC. 603.[42] (a) All orders, determinations, rules, regulations, permits, contracts, agreements, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are the subject of this Act, by (i) any agency or officer, or part thereof, in exercising the functions which are affected by this Act, or (ii) any court of competent jurisdiction, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed as the case may be, by the parties thereto or by any court of competent jurisdiction.

(b) Nothing in this Act shall affect the procedures or requirements applicable to agreements for cooperation entered into pursuant to section 91 c., 144 b., or 144 c. of the 1954 Act or arrangements pursuant thereto as it was in effect immediately prior to the date of enactment of this Act.

(c) Except where otherwise provided, the provisions of this Act shall take effect immediately upon enactment regardless of any requirement for the promulgation of regulations to implement such provisions.

[41] Sec. 1370 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661; 100 Stat. 4004) added subsec. (f).

[42] 42 U.S.C. 2153f.

## (2) Functions Relating to Nuclear Non-Proliferation

**Executive Order 12058, May 11, 1978, 43 F.R. 20947, 22 U.S.C. 3201 note**

By virtue of the authority vested in me by the Nuclear Non-Proliferation Act of 1978 (Public Law 95–242, 92 Stat. 120, 22 U.S.C. 3201) and the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

**Section 1.** Department of Energy. The following functions vested in the President by the Nuclear Non-Proliferation Act of 1978 (92 Stat. 120, 22 U.S.C. 3201), hereinafter referred to as the Act, and by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), hereinafter referred to as the 1954 Act, are delegated or assigned to the Secretary of Energy:

(a) That function vested by Section 402(b) of the Act (92 Stat. 145, 42 U.S.C. 2153a).

(b) Those functions vested by Sections 131a(2)(G), 131b(1), and 131f(2) of the 1954 Act (92 Stat. 127, 42 U.S.C. 2160).

(c) That function vested by Section 131f(1)(A)(ii) of the 1954 Act to the extent it relates to the preparation of a detailed generic plan.

**Sec. 2.** Department of State. The Secretary of State shall be responsible for performing the following functions vested in the President:

(a) Those functions vested by Sections 104(a), 104(d), 105, 403, 404, 407, and 501 of the Act (92 Stat. 122, 123, 146, 147, and 22 U.S.C. 3223(a), 3223(d), 3224, and 42 U.S.C. 2153b, 2153c, 2153e, and 22 U.S.C. 3261).

(b) That function vested by Section 128a(2) of the 1954 Act (92 Stat. 137, 42 U.S.C. 2157(a)(2)).

(c) That function vested by Section 601 of the Act to the extent it relates to the preparation of an annual report.

(d) The preparation of timely information and recommendations related to the President's functions vested by Sections 126, 128b, and 129 of the 1954 Act (92 Stat. 131, 137, and 138, 42 U.S.C. 2155, 2157, and 2158).

(e) That function vested by Section 131c of the 1954 Act (92 Stat. 129, 42 U.S.C. 2160(c)); except that, the Secretary shall not waive the 60-day requirement for the preparation of a Nuclear Non-Proliferation Assessment Statement for more than 60 days without the approval of the President.

**Sec. 3.** Department of Commerce. The Secretary of Commerce shall be responsible for performing the function vested in the President by Section 309(c) of the Act (92 Stat. 141, 42 U.S.C. 2139a).

**Sec. 4.** Coordination. In performing the functions assigned to them by this Order, the Secretary of Energy and the Secretary of State shall consult and coordinate their actions with each other and with the heads of other concerned agencies.

**Sec. 5.** General Provisions. (a) Executive Order No. 11902 of February 2, 1976, entitled "Procures for an Export Licensing Policy as to Nuclear Materials and Equipment," is revoked.

(b) The performance of functions under either the Act or the 1954 Act shall not be delayed pending the development of procedures, even though as many as 120 days are allowed for establishing them. Except where it would be inconsistent to do so, such functions shall be carried out in accordance with procedures similar to those in effect immediately prior to the effective date of the Act.

## (3) Export of Nuclear Material

### (A) U.S. Exports of Low-Enriched Uranium Fuel

**Public Law 96–280 [S.J. Res. 89], 94 Stat. 550, approved June 18, 1980**

JOINT RESOLUTION Permitting the supply of additional low enriched uranium fuel under international agreements for cooperation in the civil uses of nuclear energy, and for other purposes.

Whereas the Nuclear Non-Proliferation Act of 1978 urges the United States to provide a reliable supply of nuclear fuel to those nations which adhere to policies designed to prevent the proliferation of nuclear weapons; and

Whereas the United States, in order to achieve the goals of that Act should be able to continue to supply low-enriched uranium fuel to nations that have entered into good faith negotiations as called for in section 404(a) of the Act; and

Whereas pending such negotiations, limitations now contained in certain agreements for cooperation on the amount of low-enriched uranium which may be supplied thereunder are insufficient to permit adequate assurance of supplies: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1.[1] Limits contained in agreements for cooperation on the amount of low-enriched uranium which may be transferred by or exported from the United States pursuant thereto shall not be construed to preclude transfer or export of amounts of low-enriched uranium in excess of such limits to nations which are parties to the Treaty on the Non-Proliferation of Nuclear Weapons.

SEC. 2.[1] (a) The terms used in this joint resolution shall have the meanings ascribed to them by the Atomic Energy Act of 1954 and by the Nuclear Non-Proliferation Act of 1978.

(b) The term "low-enriched uranium" means uranium enriched to less than 20 per centum in the isotope 235.

[1] 42 U.S.C. 2153c note.

## (B) Export of Special Nuclear Material and Components to India

**Executive Order 12218, June 19, 1980, 45 F.R. 41625, 42 U.S.C. 2155 note**

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Section 126b. (2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2155(b)(2)), and having determined that withholding the exports proposed pursuant to Nuclear Regulatory Commission export license applications XSNM–1379, XSNM–1569, XCOM–0240, XCOM–0250, XCOM–0376, XCOM–0381 and XCOM–0395, would be seriously prejudicial to the achievement of United States nonproliferation objectives and would otherwise jeopardize the common defense and security, those exports to India are authorized; however, such exports shall not occur for a period of 60 days as defined by Section 130 g. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2159(g)).

## (C) Export of Special Nuclear Material to India

**Executive Order 12055, April 27, 1978, 43 F.R. 18157, 42 U.S.C. 2155 note**

By virtue of the authority vested in me as President by the Constitution of the United States of America and by Section 126b(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2155), as amended by Section 304(a) of the Nuclear Non-Proliferation Act of 1978 (Public Law 95–242, 92 Stat. 131), and having determined that withholding the export proposed pursuant to Nuclear Regulatory Commission export license application XSNM–1060 would be seriously prejudicial to the achievement of the United States non-proliferation objectives, that export to India is authorized; however, such export shall not occur for a period of 60 days as defined by Section 130g of the Atomic Energy Act of 1954, as amended.

## (4) Department of Energy Act of 1978—Civilian Applications

**Partial text of Public Law 95–238 [S. 1340], 92 Stat. 47 at 59 and 75, approved February 25, 1978**

AN ACT To authorize appropriations to the Department of Energy, for energy research, development, and demonstration, and related programs in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Non-Nuclear Energy Research and Development Act of 1974, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Department of Energy Act of 1978—Civilian Applications".

* * * * * * *

SEC. 203.[1] The Secretary of Energy, in cooperation with the Secretary of State, shall report to the Committees on Science and Technology and International Relations of the House of Representatives and the Committees on Energy and Natural Resources and Foreign Relations of the Senate, within six months after the date of the enactment of this Act, on the effects of the April 20, 1977, message from the President of the United States, "Establishing for the United States a Strong and Effective Nuclear Non-Proliferation Policy", on nuclear research and development cooperative agreements. This report shall include impacts of the message and related initiatives through the promulgation, repeal, or modification of Executive orders, Presidential proclamation, treaties, other international agreements, and other pertinent documents of the President, the Executive Office of the President, the administrative agencies, and the departments, on cooperation between the United States and any other nation in the research, development, demonstration, and commercialization of all nuclear fission and nuclear fusion technologies. After the initial report, the Administrator shall report to such Committees on each subsequent major related initiative.

* * * * * * *

SEC. 208.[2] (a) The Secretary of Energy shall—

(1) * * *

(2) * * *

(3) initiate and conduct a study involving the prospects for applications of solar photovoltaic energy systems for power generation in foreign countries, particularly lesser developed countries, and the potential for the exportation of these energy

[1] Formerly at 22 U.S.C. 2429 note. Former sec. 2429 dealt with safeguards and prohibitions concerning U.S. assistance to countries providing or receiving nuclear enrichment transfers to or from other states. Sec. 826(b) of the Nuclear Proliferation Prevention Act of 1994 (title VIII of Public Law 103–236; 108 Stat. 519) repealed 22 U.S.C. 2429.

[2] 42 U.S.C. 5556a.

systems. This study shall involve the cooperation of the Department of State and the Department of Commerce, as well as other Federal agencies which the Secretary of Energy deems appropriate. A final report shall be submitted to the Congress, as well as a preliminary report within twelve months of the enactment of this Act * * *

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## x. Atomic Energy Act and Related Materials

### (1) Atomic Energy Act of 1954, as amended

**Partial text of Public Law 83–703 [H.R. 9757], 68 Stat. 919, approved August 30, 1954; as amended by Public Law 84–337 [H.R. 7684], 69 Stat. 630, approved August 9, 1955; Public Law 84–722 [H.R. 11926], 70 Stat. 553, approved July 14, 1956; Public Law 84–1006 [S. 4203], 70 Stat. 1069, approved August 6, 1956; Public Law 85–14 [H.R. 5866], 71 Stat. 11, approved April 12, 1957; Public Law 85–79 [S. 2243], 71 Stat. 274, approved July 3, 1957; Public Law 85–162 [H.R. 8996], 71 Stat. 410, approved August 21, 1957; Public Law 85–177 [International Atomic Energy Participation Act of 1957; H.R. 8992], 71 Stat. 453, approved August 28, 1957; Public Law 85–256 [H.R. 7383], 71 Stat. 576, approved September 2, 1957; Public Law 85–287 [H.R. 8994], 71 Stat. 612, approved September 4, 1957; Public Law 85–479 [H.R. 12716], 72 Stat. 276, approved July 2, 1958; Public Law 85–507 [Government Employees Training Act; S. 385], 72 Stat. 327, approved July 7, 1958; Public Law 85–602 [S. 4165], 72 Stat. 525, approved August 8, 1958; Public Law 85–681 [H.R. 13482], 72 Stat. 632, approved August 19, 1958; Public Law 85–744 [H.R. 13455], 72 Stat. 837, approved August 23, 1958; Public Law 86–43 [S. 1197], 73 Stat. 73, approved June 11, 1959; Public Law 86–50 [S. 2094], 73 Stat. 81, approved June 23, 1959; Public Law 86–300 [S. 2569], 73 Stat. 574, approved September 21, 1959; Public Law 86–373 [S. 2568], 73 Stat. 688, approved September 23, 1959; Public Law 87–206 [H.R. 8599], 75 Stat. 476, approved September 6, 1961; Public Law 87–615 [S. 3491], 76 Stat. 409, approved August 29, 1962; Public Law 87–793 [Postal Service and Federal Employees Salary Act of 1962; H.R. 7927], 76 Stat. 832, approved October 11, 1962; Public Law 88–72 [S. 1745], 77 Stat. 84, approved July 22, 1963; Public Law 88–294 [S. 2448], 78 Stat. 172, approved March 26, 1964; Public Law 88–394 [S. 2963], 78 Stat. 376, approved August 1, 1964; Public Law 88–426 [Government Employees Salary Reform Act of 1964; H.R. 11049], 78 Stat. 423, approved August 14, 1964; Public Law 88–448 [Dual Compensation Act; H.R. 7381], 78 Stat. 484, approved August 19, 1964; Public Law 88–489 [Private Ownership of Special Nuclear Materials Act; S. 3075], 78 Stat. 602, approved August 26, 1964; Public Law 89–135 [H.R. 8856], 79 Stat. 551, approved August 24, 1965; Public Law 89–210 [S. 2042], 79 Stat. 855, approved September 29, 1965; Public Law 89–645 [S. 3830], 80 Stat. 891, approved October 13, 1966; Public Law 90–190 [S. 2644], 81 Stat. 575, approved December 14, 1967; Public Law 91–161 [S. 3169], 83 Stat. 444, approved December 24, 1969; Public Law 91–452 [Organized Crime Control Act of 1970; S. 30], 84 Stat. 922, approved October 15, 1970; Public Law 91–560 [H.R. 18679], 84 Stat. 1472, approved December 19, 1970; Public Law 92–84 [H.R. 9388], 85 Stat. 304, approved August 11, 1971; Public Law 92–307 [H.R. 14655], 86 Stat. 191, approved June 2, 1972; Public Law 92–314 [S. 3607], 86 Stat. 227, approved June 16, 1972; Public Law 93–377 [S. 3669], 88 Stat. 472, approved August 17, 1974; Public Law 93–438 [Energy Reorganization Act of 1974; H.R. 11510], 88 Stat. 1233, approved October 11, 1974; Public Law 93–485 [S. 3698], 88 Stat. 1460, approved October 26, 1974; Public Law 93–514 [S. 3802], 88 Stat. 1611, approved December 6, 1974; Public Law 94–197 [H.R. 8631], 89 Stat. 1111, approved December 31, 1975; Public Law 95–110 [S. 1153], 91 Stat. 884, approved September 20, 1977; Public Law 95–242 [Nuclear Nonproliferation Act of 1978; H.R. 8638], 92 Stat. 120, approved March 10, 1978; Public Law 95–601 [S. 2584], 92 Stat. 2947, approved November 6, 1978; Public Law 95–604 [Uranium Mill Tailings Radiation Control Act of 1978; H.R. 13650], 92 Stat. 3021, approved November 8, 1978; Public Law 96–106 [Surface Transportation Assistance Act of 1978; H.R. 4249], 93 Stat. 796, approved November 9, 1978; Public Law 96–295 [S. 562], 94 Stat. 780,**

**approved June 30, 1980; Public Law 97–90 [Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1982; H.R. 3413], 95 Stat. 1163, approved December 4, 1983; Public Law 97–164 [Federal Courts Improvement Act; H.R. 4482], 96 Stat. 25, approved April 2, 1982; Public Law 97–415 [H.R. 2330], 96 Stat. 2067, approved January 4, 1983; Public Law 99–64 [Export Administration Act of 1985; S. 883], 99 Stat. 120, approved July 12, 1985; Public Law 99–399 [Omnibus Diplomatic Security and Antiterrorism Act of 1986; H.R. 4151], 100 Stat. 853, approved August 27, 1986; Public Law 100–408 [Price-Anderson Amendments Act of 1988; H.R. 1414], 102 Stat. 1066, approved August 20, 1988; Public Law 101–189 [National Defense Authorization Act for Fiscal Years 1990 and 1991; H.R. 2461], 103 Stat. 1352, approved November 29, 1989; Public Law 101–575 [Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990; H.R. 4808], 104 Stat. 2834, approved November 15, 1990; Public Law 102–484 [National Defense Authorization Act for Fiscal Year 1993; H.R. 5006], 106 Stat. 2315, approved October 23, 1992; Public Law 102–486 [Energy Policy Act of 1992; H.R. 776], 106 Stat. 2776, approved October 24, 1992; Public Law 103–160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 2401], 107 Stat. 1547, approved November 30, 1993; Public Law 103–236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 103–337 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994; Public Law 103–437 [U.S.C. Technical Amendments; H.R. 4777], 108 Stat. 4581, approved November 2, 1994; Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; Public Law 104–134 [USEC Privatization Act, subchapter A of chapter 1 of title III of the Omnibus Consolidated Rescissions and Appropriations Act of 1996; H.R. 3019], 110 Stat. 1321, approved April 26, 1996; Public Law 104–184 [House of Representatives Administrative Reform Technical Corrections Act; H.R. 2739], 110 Stat. 1718, approved August 20, 1996; Public Law 105–85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119], 111 Stat. 1629, approved November 18, 1997; Public Law 105–277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; Public Law 106–65 [National Defense Authorization Act for Fiscal Year 2000; S. 1059], 113 Stat. 512, approved October 5, 1999; Public Law 108–458 [Intelligence Reform and Terrorism Prevention Act of 2004; S. 2845], 118 Stat. 3638, approved December 17, 2004; Public Law 109–58 [Energy Policy Act 2005; H.R. 6], 119 Stat. 594, approved August 8, 2005; and Public Law 110–369 [United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act; H.R. 7081], 122 Stat. 4028, approved October 8, 2008**

NOTE.—The Atomic Energy Commission was abolished and its functions were transferred to the Administrator of the Energy Research and Development Administration, except for any licensing or regulatory functions of the Commission, which were transferred to the Nuclear Regulatory Commission. See Public Law 93–438, 42 U.S.C. 5814 and 5841. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided). See Public Law 95–91, 42 U.S.C. 7151(a) and 7293.

Certain functions of the Nuclear Regulatory Commission were transferred to the Chairman thereof. See Reorganization Plan No. 1 of 1980 (45 F.R. 40561; 94 Stat. 3585; 42 U.S.C. 5841 note).

AN ACT To amend the Atomic Energy Act of 1946, as amended, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Atomic Energy Act of 1946, as amended, is amended to read as follows:

# ATOMIC ENERGY ACT OF 1954

## TITLE I—ATOMIC ENERGY [1]

### CHAPTER 1. DECLARATION, FINDINGS, AND PURPOSE

**Section 1.**[2] **Declaration.**—Atomic energy is capable of application for peaceful as well as military purposes. It is therefore declared to be the policy of the United States that—

a. the development, use, and control of atomic energy shall be directed so as to make the maximum contribution to the general welfare, subject at all times to the paramount objective of making the maximum contributions to the common defense and security; and

b. the development, use, and control of atomic energy shall be directed so as to promote world peace, improve the general welfare, increase the standard of living, and strengthen free competition in private enterprise.

**Sec. 2.**[3] **Findings.**—The Congress of the United States hereby makes the following findings concerning the development, use, and control of atomic energy:

a. The development, utilization, and control of atomic energy for military and for all other purposes are vital to the common defense and security.

c.[4] The processing and utilization of source, byproduct, and special nuclear material affect interstate and foreign commerce and must be regulated in the national interest.

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[1] Sec. 902(a)(8) of the Energy Policy Act of 1992 (Public Law 102–486; 106 Stat. 2944) inserted title designation, and sec. 901 of that Act added "Title II—United States Enrichment Corporation" at 42 U.S.C. 2297 et seq.

[2] 42 U.S.C. 2011.

[3] 42 U.S.C. 2012. Sec. 20 of the Private Ownership of Special Nuclear Materials Act (Public Law 88–489; 78 Stat. 602) read as follows:

"Nothing in this Act shall be deemed to diminish existing authority of the United States, or of the Atomic Energy Commission under the Atomic Energy Act of 1954, as amended, to regulate source, byproduct, and special nuclear material and production and utilization facilities, or to control such materials and facilities exported from the United States by imposition of governmental guarantees and security safeguards with respect thereto, in order to assure the common defense and security and to protect the health and safety of the public, or to reduce the responsibility of the Atomic Energy Commission to achieve such objectives.".

[4] Sec. 1 of Public Law 88–489 (78 Stat. 602) deleted subsec. b., which formerly read as follows:

"b. In permitting the property of the United States to be used by others, such use must be regulated in the national interest and in order to provide for the common defense and security and to protect the health and safety of the public.".

d. The processing and utilization of source, byproduct, and special nuclear material must be regulated in the national interest and in order to provide for the common defense and security and to protect the health and safety of the public.

e. Source and special nuclear material, production facilities, and utilization facilities are affected with the public interest, and regulation by the United States of the production and utilization of atomic energy and of the facilities used in connection therewith is necessary in the national interest to assure the common defense and security and to protect the health and safety of the public.

f. The necessity for protection against possible interstate damage occurring from the operation of facilities for the production or utilization of source or special nuclear material places the operation of those facilities in interstate commerce for the purposes of this Act.

g. Funds of the United States may be provided for the development and use of atomic energy under conditions which will provide for the common defense and security and promote the general welfare.

i.[5] In order to protect the public and to encourage the development of the atomic energy industry, in the interest of the general welfare and of the common defense and security, the United States may make funds available for a portion of the damages suffered by the public from nuclear incidents, and may limit the liability of those persons liable for such losses.

**Sec. 3.[6] Purpose.**—It is the purpose of this Act to effectuate the policies set forth above by providing for—

a. a program of conducting, assisting, and fostering research and development in order to encourage maximum scientific and industrial progress;

b. a program for the dissemination of unclassified scientific and technical information and for the control, dissemination, and declassification of Restricted Data, subject to appropriate safeguards, so as to encourage scientific and industrial progress;

c.[7] a program for Government control of the possession, use, and production of atomic energy and special nuclear material, whether owned by the Government or others, so directed as to make the maximum contributions to the common defense and security and the national welfare, and to provide continued assurance of the Government's ability to enter into and enforce agreements with nations or groups of nations for the control of special nuclear materials and atomic weapons;

d. a program to encourage widespread participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with the common defense and security and with the health and safety of the public;

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[5] Sec. 2 of Public Law 88–489 (78 Stat. 602) deleted subsec. h., which formerly read as follows: "h. It is essential to the common defense and security that title to all special nuclear material be in the United States while such special material is within the United States.".

Sec. 1 of Public Law 88–256 (71 Stat. 576) (1957) added subsec. i.

[6] 42 U.S.C. 2013.

[7] Sec. 3 of Public Law 88–489 (78 Stat. 602) amended subsec. c., which formerly read as follows:

"c. A program for Government control of the possession, use, and production of atomic energy and special nuclear material so directed as to make the maximum contribution to the common defense and security and the national welfare;".

e. a program of international cooperation to promote the common defense and security and to make peaceful applications of atomic energy as widely as expanding technology and considerations of the common defense and security will permit; and

f. a program of administration which will be consistent with the foregoing policies and programs, with international arrangements, and with agreements for cooperation, which will enable the Congress to be currently informed so as to take further legislative action as may be appropriate.

## CHAPTER 2. DEFINITIONS

**Sec. 11.**[8] **Definitions.**—The intent of Congress in the definitions as given in this section should be construed from the words or phrases used in the definitions. As used in this Act:

a. The term "agency of the United States" means the executive branch of the United States, or any Government agency, or the legislative branch of the United States, or any agency, committee, commission, office, or other establishment in the legislative branch, or the judicial branch of the United States, or any office, agency, committee, commission, or other establishment in the judicial branch.

b. The term "agreement for cooperation" means any agreement with another nation or regional defense organization authorized or permitted by sections 54, 57, 64, 82, 91 c.,[9] 103, 104, or 144, and made pursuant to section 123.

c. The term "atomic energy" means all forms of energy released in the course of nuclear fission or nuclear transformation.

d. The term "atomic weapon" means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

e.[10] The term "byproduct material" means—

(1) any radioactive[11] material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material;

[8] 42 U.S.C. 2014.

[9] Sec. 2 of Public Law 87–206 (75 Stat. 476) restated subsec. b., adding a reference to sec. 91 c.

[10] Sec. 201 of Public Law 95–604 (92 Stat. 3033) amended and restated subsec. e. The former definition of "byproduct material" included only the text found in para. (1) of the current subsec. e.

[11] Sec. 651(e)(1)(A) of the Energy Policy Act of 2005 (subtitle B of title VI of Public Law 109–58; 119 Stat. 806) struck out "means (1) any radioactive" and inserted in lieu thereof "means—

"(1) any radioactive".

(2) the tailings[12] or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content;[13]

(3)(A) any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after the date of enactment of this paragraph for use for a commercial, medical, or research activity; or

(B) any material that—

(i) has been made radioactive by use of a particle accelerator; and

(ii) is produced, extracted, or converted after extraction, before, on, or after the date of enactment of this paragraph for use for a commercial, medical, or research activity; and

(4) any discrete source of naturally occurring radioactive material, other than source material, that—

(A) the Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public healthand safety or the common defense and security; and

(B) before, on, or after the date of enactment of this paragraph is extracted or converted after extraction for use in a commercial, medical, or research activity.

f. The term "Commission" means the Atomic Energy Commission.

g. The term "common defense and security" means the common defense and security of the United States.

h. The term "defense information" means any information in any category determined by any Government agency authorized to classify information, as being information respecting, relating to, or affecting the national defense.

i. The term "design" means (1) specifications, plans, drawings, blueprints, and other items of like nature; (2) the information contained therein; or (3) the research and development data pertinent to the information contained therein.

j.[14] The term "extraordinary nuclear occurrence" means any event causing a discharge or dispersal of source, special nuclear, or byproduct material from its intended place of confinement in amounts offsite, or causing radiation levels offsite, which the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate,[15] determines to be substantial, and which the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate,[15]

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[12] Sec. 651(e)(1)(B) of the Energy Policy Act of 2005 (subtitle B of title VI of Public Law 109–58; 119 Stat. 806) struck out "material, and (2) the tailings" and inserted in lieu thereof "material;

"(2) the tailings".

[13] Sec. 651(e)(1)(C) of the Energy Policy Act of 2005 (subtitle B of title VI of Public Law 109–58; 119 Stat. 806) struck out "content." and inserted in lieu thereof "content;

"(3)(A) any discrete source of radium-226 that is produced, * * * "

and so on through the end of para. (4) of subsec. e.

[14] Sec. 1 of Public Law 98–645 (80 Stat. 891) added subsecs. j. and m.

[15] Sec. 16(b)(1) of Public Law 100–408 (102 Stat. 1079) struck out "Commission" and inserted in lieu thereof "Nuclear Regulatory Commission or the Secretary of Energy, as appropriate,".

determines has resulted or will probably result in substantial damages to persons offsite or property offsite. Any determination by the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate,[15] that such an event has, or has not, occurred shall be final and conclusive, and no other official or any court shall have power or jurisdiction to review any such determination. The Nuclear Regulatory Commission or the Secretary of Energy, as appropriate,[15] shall establish criteria in writing setting forth the basis upon which such determination shall be made. As used in this subsection, "offsite" means away from "the location" or "the contract location" as defined in the applicable Nuclear Regulatory Commission or the Secretary of Energy, as appropriate,[15] indemnity agreement, entered into pursuant to section 170.

k.[16] The term "financial protection" means the ability to respond in damages for public liability and to meet the costs of investigating and defending claims and settling suits for such damages.

l. The term "Government agency" means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Government.

m.[14] The term "indemnitor" means (1) any insurer with respect to his obligations under a policy of insurance furnished as proof of financial protection; (2) any licensee, contractor or other person who is obligated under any other form of financial protection, with respect to such obligations; and (3) the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate,[15] with respect to any obligation undertaken by it in an indemnity agreement entered into pursuant to section 170.

n. The term "international arrangement" means any international agreement hereafter approved by the Congress or any treaty during the time such agreement or treaty is in full force and effect, but does not include any agreement for cooperation.

o.[17] The term "Energy Committees" means the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives.

p.[18] The term "licensed activity" means an activity licensed pursuant to this Act and covered by the provisions of section 170 a.

q.[19] The term "nuclear incident" means any occurrence, including an extraordinary nuclear occurrence[19] within the United States

[16] Sec. 3 of Public Law 85–256 (71 Stat. 576) added subsec. k.

[17] Sec. 15(f)(1) of Public Law 103–437 (108 Stat. 4592) amended sec. 11 o. It formerly referred to the Joint Committee on Atomic Energy. Sec. 1(a)(4) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Energy and Commerce of the House of Representatives shall be treated as referring to the Committee on Commerce of the House of Representatives. Sec. 1(c)(1) of that Act (110 Stat. 187) further provided that any reference in any provision of law enacted before January 4, 1995, to the House Committee on Energy and Commerce shall be treated as referring to (1) the Committee on Agriculture in the case of a provision relating to inspection of seafood or seafood products; (2) the Committee on Banking and Financial Services in the case of a provision relating to bank capital markets activities or depository institution securities; or (3) the Committee on Transportation and Infrastructure in the case of a provision relating to railroads and railway labor issues.

[18] Sec. 3 of Public Law 85–256 (71 Stat. 576) added subsec. p.

[19] Sec. 3 of Public Law 85–256 (71 Stat. 576) originally added this subsection as subsec. o., and sec. 4 of Public Law 87–615 (76 Stat. 409) subsequently amended and restated this subsection, which formerly read as follows:

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causing, within or outside the United States, bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material: *Provided, however,* That as the term is used in section[20] 170 l., it shall include any such occurrence outside the United States: *And provided further,* That as the term is used in section[20] 170 d., it shall include any such occurrence outside the United States if such occurrence involves source, special nuclear, or byproduct material[21] owned by, and used by or under contract with, the United States: *And provided further,* That as the term is used in section[20] 170 c., it shall include any such occurrence outside both the United States and any other nation if such occurrence arises out of or results from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material licensed pursuant to chapters 6, 7, 8, and 10 of this Act which is used in connection with the operation of a licensed stationary production or utilization facility or which moves outside the territorial limits of the United States in transit from one person licensed by the Nuclear Regulatory Commission[22] to another person licensed by the Nuclear Regulatory Commission.[21, 22]

r. The term "operator" means any individual who manipulates the controls of a utilization or production facility.

s. The term "person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency, other than the Commission, any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

t.[23] The term "person indemnified" means (1) with respect to a nuclear incident occurring within the United States or outside the United States as the term is used in section[24] 170 c., and with respect to any other nuclear incident in connection with the design, development, construction, operation, repair, maintenance, or use of the nuclear ship *Savannah,* the person with whom an indemnity agreement is executed or who is required to maintain financial protection, and any other person who may be liable for public liability

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"o. The term 'nuclear incident' means any occurrence within the United States causing bodily injury, sickness, disease, or death, or loss of or damage to property, or for loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of source, special nuclear, or byproduct material: *Provided, however,* That as the term is used in subsection 170 l., it shall mean any such occurrence outside of the United States rather than within the United States.".

Sec. 1 of Public Law 89–645 (80 Stat. 891) redesignated subsec. o. as "q." and inserted "including an extraordinary nuclear occurrence".

[20] Sec. 16(d)(1) of Public Law 100–408 (102 Stat. 1079) struck out "subsection "and inserted in lieu thereof "section".

[21] Sec. 1 of Public Law 94–197 (89 Stat. 1111) struck out "a facility or device" in the second proviso and inserted in lieu thereof "source, special nuclear, or byproduct material", and added the third proviso.

[22] Sec. 16(a)(1) of Public Law 100–408 (102 Stat. 1079) struck out "Commission" and inserted in lieu thereof "Nuclear Regulatory Commission".

[23] Sec. 3 of Public Law 85–256 (71 Stat. 576) added subsec. t. Subsequently, sec. 5 of Public Law 87–615 (76 Stat. 409) and sec. 1 of Public Law 94–197 (89 Stat. 1111) amended the subsection.

[24] Sec. 16(d)(2) of Public Law 100–408 (102 Stat. 1079) struck out "subsection" and inserted in lieu thereof "section".

or (2) with respect to any other nuclear incident occurring outside the United States, the person with whom an indemnity agreement is executed and any other person who may be liable for public liability by reason of his activities under any contract with the Secretary of Energy[25] or any project to which indemnification under the provisions of section[24] 170 d. has been extended or under any subcontract, purchase order or other agreement, of any tier, under any such contract or project.

u. The term "produce", when used in relation to special nuclear material, means (1) to manufacture, make, produce, or refine special nuclear material; (2) to separate special nuclear material from other substances in which such material may be contained; or (3) to make or to produce new special nuclear material.

v. The term "production facility" means (1) any equipment or device determined by rule of the Commission to be capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device as determined by the Commission. Except with respect to the export of a uranium enrichment production facility,[26] such term as used in chapters 10 and 16 shall not include any equipment or device (or important component part especially designed for such equipment or device) capable of separating the isotopes of uranium or enriching uranium in the isotope 235.[27]

w.[28] The term "public liability" means any legal liability arising out of or resulting from a nuclear incident or precautionary evacuation (including all reasonable additional costs incurred by a State, or a political subdivision of a State, in the course of responding to a nuclear incident or a precautionary evacuation),[29] except: (i) claims under State or Federal workmen's compensation acts of employees of persons indemnified who are employed at the site of and in connection with the activity where the nuclear incident occurs; (ii) claims arising out of an act of war; and (iii) whenever used in

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[25] Sec. 16(b)(2) of Public Law 100–408 (102 Stat. 1079), struck out "Commission" and inserted in lieu thereof "Secretary of Energy".

[26] Sec. 3116(b) of the USEC Privatization Act (subchapter A, chapter 1, title III of Public Law 104–134; 110 Stat. 1321–349) struck out "or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology" following "facility,".

[27] Sec. 1102 of the Energy Policy Act of 1992 (Public Law 102–486; 106 Stat. 2955) amended and restated the last sentence. The former subsec. v., which sec. 5 of Public Law 101–575 (104 Stat. 2835) originally added, read as follows:

"v. Except with respect to the export of a uranium enrichment production facility, such term as used in chapters 10 and 16 shall not include any equipment or device (or important component part especially designed for such equipment or device) capable of separating the isotopes of uranium or enriching uranium in the isotope 235.".

[28] Sec. 3 of Public Law 85–256 (71 Stat. 576) originally added this subsection as subsec. u. Sec. 3 of Public Law 87–206 (75 Stat. 475) subsequently amended this subsection. Previously, this subsection read:

"u. The term 'public liability' means any legal liability arising out or resulting from a nuclear incident, except claims under State or Federal Workmen's Compensation Acts of employees or persons indemnified who are employed at the site of and in connection with the activity where the nuclear incident occurs, and except for claims arising out of an act of war. 'Public liability' also includes damage to property of persons indemnified: *Provided*, That such property is covered under the terms of the financial protection required, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs.".

[29] Sec. 5(a) of Public Law 100–408 (102 Stat. 1070) added "or precautionary evacuation (including all reasonable additional costs incurred by a State, or a political subdivision of a State, in the course of responding to a nuclear incident or a precautionary evacuation)".

subsections a., c., and k. of 170,[30] claims for loss of, or damage to, or loss of use of property which is located at the site of and used in connection with the licensed activity which the nuclear incident occurs. "Public liability" also includes damage to property of persons indemnified: *Provided,* That such property is covered under the terms of the financial protection required, except property which is located at the site of and used in connection with the activity where the nuclear incident occurs.

x. The term "research and development" means (1) theoretical analysis, exploration, or experimentation; or (2) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

y. The term "Restricted Data" means all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to section 142.

z. The term "source material" means (1) uranium, thorium, or any other material which is determined by the Commission pursuant to the provisions of section 61 to be source material; or (2) ores containing one or more of the foregoing materials, in such concentration as the Commission may by regulation determine from time to time.

aa. The term "special nuclear material" means (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Commission, pursuant to the provisions of section 51, determines to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

bb.[31] The term "United States" when used in a geographical sense includes all Territories and possessions of the United States, the Canal Zone and Puerto Rico.

cc. The term "utilization facility" means (1) any equipment or device, except an atomic weapon, determined by rule of the Commission to be capable of making use of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public, or peculiarly adapted for making use of atomic energy in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device as determined by the Commission.

dd.[32] The terms "high-level radioactive waste" and "spent nuclear fuel" have the meanings given such terms in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

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[30] Sec. 16(d)(3) of Public Law 100–408 (102 Stat. 1080), struck out "subsections 170 a., c., and k." and inserted in lieu thereof "subsections a., c., and k. of section 170".

[31] Sec. 1 of Public Law 84–1006 (70 Stat. 1069) amended this definition, which previously read:

"The term 'United States', when used in a geographical sense, includes all Territories and possessions of the United States, and the Canal Zone.".

[32] Sec. 4(b) of Public Law 100–408 (102 Stat. 1069) added subsecs. dd., ee., and ff.

ee.[32] The term "transuranic waste" means material contaminated with elements that have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, and that are in concentrations greater that 10 nanocuries per gram, or in such other concentrations as the Nuclear Regulatory Commission may prescribe to protect the public health and safety.

ff.[32] The term "nuclear waste activities", as used in section 170, means activities subject to an agreement of indemnification under subsection d. of such section, that the Secretary of Energy is authorized to undertake, under this Act or any other law, involving research and development on, spent nuclear fuel, high-level radioactive waste, or transuranic waste, including (but not limited to) activities authorized to be carried out under the Waste Isolation Pilot Project under section 213 of Public Law 96–164 (93 Stat. 1265).

gg.[33] The term "precautionary evacuation" means an evacuation of the public within a specified area near a nuclear facility, or the transportation route in the case of an accident involving transportation of source material, special nuclear material, byproduct material, high-level radioactive waste, spent nuclear fuel, or transuranic waste to or from a production or utilization facility, if the evacuation is—

(1) the result of any event that is not classified as a nuclear incident but that poses imminent danger of bodily injury or property damage from the radiological properties of source material, special nuclear material, byproduct material, high level radioactive waste, spent nuclear fuel, or transuranic waste, and causes an evacuation; and

(2) initiated by an official of a State or a political subdivision of a State, who is authorized by State law to initiate such an evacuation and who reasonably determined that such an evacuation was necessary to protect the public health and safety.

hh.[34] The term "public liability action", as used in section 170, means any suit asserting public liability. A public liability action shall be deemed to be an action arising under section 170, and the substantive rules for decision in such action shall be derived from the law of the State in which the nuclear incident involved occurs, unless such law is inconsistent with the provisions of such section.

jj.[35] LEGAL COSTS.—As used in section 170, the term "legal costs" means the costs incurred by a plaintiff or a defendant in initiating, prosecuting, investigating, settling, or defending claims or suits for damage arising under such section.

## CHAPTER 3. ORGANIZATION[36]

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[33] Sec. 5(b) of Public Law 100–408 (102 Stat. 1070) added subsec. gg.
[34] Sec. 11(b) of Public Law 100–408 (102 Stat. 1076) added subsec. hh.
[35] Sec. 11(d)(2) of Public Law 100–408 (102 Stat. 1078) added subsec. jj.

## CHAPTER 6. SPECIAL NUCLEAR MATERIAL

**Sec. 51.**[37] **Special Nuclear Material.**—The Commission may determine from time to time that other material is special nuclear material in addition to that specified in the definition as special nuclear material. Before making any such determination, the Commission must find that such material is capable of releasing substantial quantities of atomic energy and must find that the determination that such material is special nuclear material is in the interest of the common defense and security, and the President must have expressly assented in writing to the determination. The Commission's determination, together with the assent of the President, shall be submitted to the Energy Committees[38] and a period of thirty days shall elapse while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of an adjournment for more than three days) before the determination of the Commission may become effective: *Provided, however,* That the Energy Committees,[38] after having received such determination, may be resolution in writing, waive the conditions of or all or any portion of such thirty-day period.

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**Sec. 54.**[39] **Foreign Distribution of Special Nuclear Material.**—a. The Commission is authorized to cooperate with any nation or group of nations by distributing special nuclear material and to distribute such special nuclear material, pursuant to the terms of an agreement for cooperation to which such nation or group of nations is a party and which is made in accordance with section 123. Unless hereafter otherwise authorized by law the Commission shall be compensated for special nuclear material so distributed at not less than the Commission's published charges applicable to the domestic distribution of such material, except that the Commission to assist and encourage research on peaceful uses or for medical therapy may so distribute without charge during any calendar year only a quantity of such material which at the time of transfer does not exceed in value $10,000 in the case of one nation or $50,000 in the case of any group of nations. The Commission may distribute to the International Atomic Energy Agency, or to any group of nations, only such amounts of special nuclear materials and for such period of time as are authorized by Congress: *Provided, however,* That, (i) notwithstanding this provision, the Commission is hereby authorized, subject to the provisions of section 123, to distribute to the Agency five thousand kilograms of

[36] Sec. 104(a) of the Energy Reorganization Act of 1974 (Public Law 93–438; 88 Stat. 1237; 42 U.S.C. 5801–5891) repealed secs. 21 and 22 (42 U.S.C. 2031 and 2032) of chapter 3, abolishing the Atomic Energy Commission created thereunder, vesting its licensing and related regulatory authority of facilities under chapters 6, 7, 8, and 10 in a new Nuclear Regulatory Commission, and transferring all its other functions to a new Energy Research and Development Administration. The Department of Energy, established on October 1, 1977, pursuant to the Department of Energy Organization Act (Public Law 95–91; 91 Stat. 565) and Executive Order 12009 of September 13, 1977 (42 F.R. 46267; September 15, 1977), subsequently assumed all functions of the Energy Research and Development Administration. See boxnote on page 404.

[37] 42 U.S.C. 2071.

[38] Sec. 15(f)(2) of Public Law 103–437 (108 Stat. 4592) struck out "Joint Committee" and inserted in lieu thereof "Energy Committees".

[39] 42 U.S.C. 2074. Sec. 2 of Public Law 93–377 (88 Stat. 472) amended and restated sec. 54.

contained uranium-235, five hundred grams of uranium-233, and three kilograms of plutonium, together with the amounts of special nuclear material which will match in amount the sum of all quantities of special nuclear materials made available by all other members of the Agency to June 1, 1960; and (ii) notwithstanding the foregoing provisions of this subsection, the Commission may distribute to the International Atomic Energy Agency, or to any group of nations, such other amounts of special nuclear materials and for such other periods of time as are established in writing by the Commission: *Provided, however,* That before they are established by the Commission pursuant to this subdivision (ii), such proposed amounts and periods shall be submitted to the Congress and referred to the Energy Committees[40] and a period of sixty days shall elapse while Congress is in session (in computing such sixty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days): *And provided further,* That any such proposed amounts and periods shall not become effective if during such sixty-day period the Congress passes a concurrent resolution stating in substance that it does not favor the proposed action: *And provided further,* That prior to the elapse of the first thirty days of any such sixty-day period the Energy Committees shall submit to their respective houses reports of their views[41] and recommendations respecting the proposed amounts and periods and an accompanying proposed concurrent resolution stating in substance that the Congress favors, or does not favor, as the case may be, the proposed amounts or periods. The Commission may agree to repurchase any special nuclear material distributed under a sale arrangement pursuant to this subsection which is not consumed in the course of the activities conducted in accordance with the agreement for cooperation, or any uranium remaining after irradiation of such special nuclear material, at a repurchase price not to exceed the Commission's sale price for comparable special nuclear material or uranium in effect at the time of delivery of such material to the Commission. The Commission may also agree to purchase, consistent with and within the period of the agreement for cooperation, special nuclear material produced in a nuclear reactor located outside the United States through the use of special nuclear material which was leased or sold pursuant to this subsection. Under any such agreement the Commission shall purchase only such material as is delivered to the Commission during any period when there is in effect a guaranteed purchase price for the same material produced in a nuclear reactor by a person licensed under section 104, established by the Commission pursuant to section 56, and the price to be paid shall be the price so established by the Commission and in effect for the same material delivered to the Commission.

b. Notwithstanding the provisions of sections 123, 124, and 125, the Commission is authorized to distribute to any person outside the United States (1) plutonium containing 80 per centum or more

[40] Sec. 15(f)(3)(A) of Public Law 103–437 (108 Stat. 4592) struck out "Joint Committee" and inserted in lieu thereof "Energy Committees".

[41] Sec. 15(f)(3)(A) of Public Law 103–437 (108 Stat. 4592) struck out "Joint Committee shall submit a report to the Congress of its views", and inserted in lieu thereof "Energy Committees shall submit to their respective houses reports of their views".

by weight of plutonium-238, and (2) other special nuclear material when it has, in accordance with subsection 57 d., exempted certain classes or quantities of such other special nuclear material or kinds of uses or users thereof from the requirements for a license set forth in this chapter. Unless hereafter otherwise authorized by law, the Commission shall be compensated for special nuclear material so distributed at not less than the Commission's published charges applicable to the domestic distribution of such material. The Commission shall not distribute any plutonium containing 80 per centum or more by weight of plutonium-238 to any person under this subsection if, in its opinion, such distribution would be inimical to the common defense and security. The Commission may require such reports regarding the use of material distributed pursuant to the provisions of this subsection as it deems necessary.

c. The Commission is authorized to license or otherwise permit others to distribute special nuclear material to any person outside the United States under the same conditions, except as to charges, as would be applicable if the material were distributed by the Commission.

d.[42] The authority to distribute special nuclear material under this section other than under an export license granted by the Nuclear Regulatory Commission shall extend only to the following small quantities of special nuclear material (in no event more than five hundred grams per year of the uranium isotope 233, the uranium isotope 235, or plutonium contained in special nuclear material to any recipient):

(1) which are contained in laboratory samples, medical devices, or monitoring or other instruments; or

(2) the distribution of which is needed to deal with an emergency situation in which time is of the essence.

e.[43] The authority in this section to commit United States funds for any activities pursuant to any subsequent arrangement under section 131 a. (2)(E) shall be subject to the requirements of section 131.

**Sec. 55.**[44] **Acquisition.**—The Commission is authorized, to the extent it deems necessary to effectuate the provisions of this Act, to purchase without regard to the limitations in section 54 or any guaranteed purchase prices established pursuant to section 56, and to take, requisition, condemn, or otherwise acquire any special nuclear material or any interest therein. Any contract of purchase made under this section may be made without regard to the provisions of section 3709 of the Revised Statutes, as amended, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Par-

[42] Sec. 301(a) of the Nuclear Non-Proliferation Act of 1978 (Public Law 95–242; 92 Stat. 125) added subsec. d.

[43] Sec. 303(b)(1) of Public Law 95–242 (92 Stat. 131) added subsec. e.

[44] 42 U.S.C. 2075. Sec. 10 of Public Law 88–489 (78 Stat. 602) amended and restated sec. 55, which formerly read as follows:

"**Sec. 55. Acquisition.**—The Commission is authorized to purchase or otherwise acquire any special nuclear material or any interest therein outside the United States without regard to the provisions of section 3709 of the Revised Statutes, as amended, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable. Partial and advance payments may be made under contracts for such purposes.".

tial and advance payments may be made under contracts for such purposes. Just compensation shall be made for any right, property, or interest in property taken, requisitioned, or condemned under this section: *Provided,* That the authority in this section to commit United States funds for any activities pursuant to any subsequent arrangements under section 131 a. (2)(E) shall be subject to the requirements of section 131.[45]

**Sec. 56.**[46] **Guaranteed Purchase Prices.**—The Commission shall establish guaranteed purchase prices for plutonium produced in a nuclear reactor by a person licensed under section 104 and delivered to the Commission before January 1, 1971. The Commission shall also establish for such periods of time as it may deem necessary but not to exceed ten years as to any such period, guaranteed purchase prices for uranium enriched in the isotope 233 produced in a nuclear reactor by a person licensed under section 103 or[47] section 104 and delivered to the Commission within the period of the guarantee. Guaranteed purchase prices established under the authority of this section shall not exceed the Commission's determination of the estimated value of plutonium or uranium enriched in the isotope 233 as fuel in nuclear reactors, and such prices shall be established on a nondiscriminatory basis: *Provided,* That the Commission is authorized to establish such guaranteed purchase prices only for such plutonium or uranium enriched in the isotope 233 as the Commission shall determine is produced through the use of special nuclear material which was leased or sold by the Commission pursuant to section 53.

**Sec. 57.**[48] **Prohibition.**—

a. Unless authorized by a general or specific license issued by the Commission, which the Commission is authorized to issue pursuant to section 53, no person may transfer or receive in interstate com-

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[45] Sec. 303(b)(2) of the Nuclear Non-Proliferation Act of 1978 (92 Stat. 131) added the proviso clause.

[46] 42 U.S.C. 2076. Sec. 11 of Public Law 88–489 (78 Stat. 602) amended and restated sec. 56, which formerly read as follows:

"**Sec. 56. Fair Price.**—In determining the fair price to be paid by the Commission pursuant to section 52 for the production of any special nuclear material, the Commission shall take into consideration the value of the special nuclear material for its intended use by the United States and may give such weight to the actual cost of producing that material as the Commission finds to be equitable. The fair price, as may be determined by the Commission, shall apply to all licensed producers of the same material: *Provided, however,* That the Commission may establish guaranteed fair prices for all special nuclear material delivered to the Commission for such period of time as it may deem necessary not to exceed seven years.".

[47] Sec. 2 of Public Law 91–500 (84 Stat. 1472) added "section 103 or".

[48] 42 U.S.C. 2077. Sec. 12 of Public Law 88–489 (78 Stat. 602) amended and restated sec. 57, which previously read as follows:

"**Sec. 57. Prohibition.**—

"a. It shall be unlawful for any person to—

"(1) possess or transfer any special nuclear material which is the property of the United States except as authorized by the Commission pursuant to subsec. 53 a.;

"(2) transfer or receive any special nuclear material in interstate commerce except as authorized by the Commission pursuant to subsection 25 a., or export from or import into the United States any special nuclear material; and

"(3) directly or indirectly engage in the production of any special nuclear material outside of the United States except (A) under an agreement for cooperation made pursuant to section 123, or (B) upon authorization by the Commission after a determination that such activity will not be inimical to the interest of the United States.

"b. The Commission shall not distribute any special nuclear material—

"(1) to any person for a use which is not under the jurisdiction of the United States except pursuant to the provisions of section 54; or

"(2) to any person within the United States, if the Commission finds that the distribution of such special nuclear material to such person would be inimical to the common defense and security.".

merce, transfer, deliver, acquire, own, possess, receive possession of or title to, or import into or export from the United States any special nuclear material.

b.[49] It shall be unlawful for any person to directly or indirectly engage or participate in the development or production of any special nuclear material[50] outside of the United States except (1) as specifically authorized under an agreement for cooperation made pursuant to section 123, including a specific authorization in a subsequent arrangement under section 131 of this Act, or (2) upon authorization by the Secretary of Energy after a determination that such activity will not be inimical to the interest of the United States: *Provided,* That any such determination by the Secretary of Energy shall be made only with the concurrence of the Department of State and after consultation with the[51] Nuclear Regulatory Commission, the Department of Commerce, and the Department of Defense. The Secretary of Energy shall, within ninety days after the enactment of the Nuclear Non-Proliferation Act of 1978, establish orderly and expeditious procedures,[52] including provision for necessary administrative actions and inter-agency memoranda of understanding, which as mutually agreeable to the Secretaries of State, Defense, and Commerce,[53] and the Nuclear Regulatory Commission for the consideration of requests for authorization under this subsection. Such procedures shall include, at a minimum explicit direction on the handling of such requests, express deadlines for the solicitation and collection of the views of the consulted agencies (with identified officials responsible for meeting such deadlines), an interagency coordinating authority to monitor the processing of such requests, predetermined procedures for the expeditious handling of intra-agency and inter-agency disagreements and appeals to higher authorities, frequent meetings of inter-agency administrative coordinators to review the status of all pending requests, and similar administrative mechanisms. To the extent practicable, an applicant should be advised of all the information required of the applicant for the entire process for every agency's needs at the beginning of the process. Potentially controversial requests should be identified as quickly as possible so that any required policy decisions or diplomatic consultations can be initiated in a timely manner. An immediate effort should be undertaken to establish quickly any necessary standards and criteria, including the nature of any required assurances or evidentiary showings, for the decision required under this subsection. The processing of any

[49] Sec. 302 of Public Law 95–242 (92 Stat. 126) amended and restated subsec. b., which formerly read as follows:

"b. It shall be unlawful for any person to directly or indirectly engage in the production of any special nuclear material outside of the United States except (1) under an agreement for cooperation made pursuant to sec. 123, or (2) upon authorization by the Commission after a determination that such activity will not be inimical to the interest of the United States.".

[50] Sec. 6803(a) of the Weapons of Mass Destruction Prohibition Improvement Act of 2004 (subtitle I of title VI of Public Law 108–458; 118 Stat. 3768) struck out "in the production of any special nuclear material" and inserted in lieu thereof "or participate in the development or production of any special nuclear material".

[51] Sec. 1225(d)(1)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–774) struck out "the Arms Control and Disarmament Agency,".

[52] See text of procedures in *Legislation on Foreign Relations Through 2005*, vol. V, sec. L.

[53] Sec. 1225(d)(1)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–774) struck out "the Director of the Arms Control and Disarmament Agency,".

request proposed and filed as of the date of enactment of the Nuclear Non-Proliferation Act of 1978 shall not be delayed pending the development and establishment of procedures to implement the requirements of this subsection. Any trade secrets or proprietary information submitted by any person seeking an authorization under this subsection shall be afforded the maximum degree of protection allowable by law: *Provided further,* That the export of component parts as defined in subsection 11 v. (2) or 11 cc. (2) shall be governed by sections 109 and 126 of this Act: *Provided further,* That notwithstanding subsection 402(d) of the Department of Energy Organization Act (Public Law 95–91), the Secretary of Energy and not the Federal Energy Regulatory Commission, shall have sole jurisdiction within the Department of Energy over any matter arising from any function of the Secretary of Energy in this section, section 54 d., section 64, or section 111 b.

c. The Commission shall not—

(1) distribute any special nuclear material to any person for a use which is not under the jurisdiction of the United States except pursuant to the provisions of section 54; or

(2) distribute any special nuclear material or issue a license pursuant to section 53 to any person within the United States if the Commission finds that the distribution of such special nuclear material or the issuance of such license would be inimical to the common defense and security or would constitute an unreasonable risk to the health and safety of the public.

d.[54] The Commission is authorized to establish classes of special nuclear material and to exempt certain classes or quantities of special nuclear material or kinds of uses or users from the requirements for a license set forth in this section when it makes a finding that the exemption of such classes or quantities of special nuclear material or such kinds of uses or users would not be inimical to the common defense and security and would not constitute an unreasonable risk to the health and safety of the public.

e.[55] Special nuclear material, as defined in section 11, produced in facilities licensed under section 103 or 104 may not be transferred, reprocessed, used, or otherwise made available by any instrumentality of the United States or any other person for nuclear explosive purposes.

**Sec. 58.**[56] **Review.**—Before the Commission establishes any guaranteed purchase price or guaranteed purchase price period in accordance with the provisions of section 56, or establishes any criteria for the waiver of any charge for the use of special nuclear material licensed and distributed under section 53, the proposed guar-

[54] Sec. 3 of Public Law 93–377 (88 Stat. 475) added subsec. d.

[55] Sec. 14 of Public Law 97–415 (96 Stat. 2075) added subsec. e.

[56] 42 U.S.C. 2078. Sec. 13 of Public Law 88–489 (78 Stat. 602) amended and restated sec. 58, which previously read as follows:

"**Sec. 58. Review.**—Before the Commission establishes any fair price or guaranteed fair price period in accordance with the provisions of section 56, or establishes any criteria for the waiver of any charge for the use of special nuclear material licensed or distributed under section 53 the proposed fair price, guaranteed fair price period, or criteria for the waiver of such charge shall be submitted to the Joint Committee, and a period of forty-five days shall elapse while Congress is in session (in computing such forty-five days there shall be excluded the days in which either House is not in session because of adjournment for more than three days): *Provided, however,* That the Joint Committee, after having received the proposed fair price, guaranteed fair price period, or criteria for the waiver of such charge, may by resolution waive the conditions of or all or any portion of such forty-five day period.".

anteed purchase price, guaranteed purchase price period, or criteria for the waiver of such charge shall be submitted to the Energy Committees[57] and a period of forty-five days shall elapse while Congress is in session (in computing such forty-five days there shall be excluded the days in which either House is not in session because of adjournment for more than three days): *Provided, however,* That the Energy Committees,[57] after having received the proposed guaranteed purchase price, guaranteed purchase price period, or criteria for the waiver of such charge, may by resolution in writing waive the conditions of, or all or any portion of, such forty-five day period.

## CHAPTER 7. SOURCE MATERIAL

**Sec. 61.**[58] **Source Material.**—The Commission may determine from time to time that other material is source material in addition to those specified in the definition of source material. Before making such determination, the Commission must find that such material is essential to the production of special nuclear material and must find that the determination that such material is source material is in the interest of the common defense and security, and the President must have expressly assented in writing to the determination. The Commission's determination, together with the assent of the President, shall be submitted to the Energy Committees[57] and a period of thirty days shall elapse while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days) before the determination of the Commission may become effective: *Provided, however,* That the Energy Committees,[57] after having received such determination, may by resolution in writing waive the conditions of or all or any portion of such thirty-day period.

**Sec. 62.**[59] **License for Transfers Required.**—Unless authorized by a general or specific license issued by the Commission, which the Commission is hereby authorized to issue, no person may transfer or receive in interstate commerce, transfer, deliver, receive possession of or title to, or import into or export from the United States any source material after removal from its place of deposit in nature, except that licenses shall not be required for quantities of source material which, in the opinion of the Commission, are unimportant.

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**Sec. 64.**[60] **Foreign Distribution of Source Material.**—The Commission is authorized to cooperate with any nation by distribution source material and to distribute source material pursuant to the terms of an agreement for cooperation to which such nation is a party and which is made in accordance with section 123. The Commission is also authorized to distribute source material outside of the United States upon a determination by the Commission that

[57] Sec. 15(f)(4) of Public Law 103–437 (108 Stat. 4592) struck out "Joint Committee" in each place where it appeared in secs. 58 and 61 and inserted in lieu thereof "Energy Committees".
[58] 42 U.S.C. 2091.
[59] 42 U.S.C. 2092.
[60] 42 U.S.C. 2094.

such activity will not be inimical to the interests of the United States. The authority to distribute source material under this section other than under an export license granted by the Nuclear Regulatory Commission shall in no case extend to quantities of source material in excess of three metric tons per year per recipient.[61]

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**Sec. 69.**[62] **Prohibition.**—The Commission shall not license any person to transfer or deliver, receive possession of or title to, or import into or export from the United States any source material if, in the opinion of the Commission, the issuance of a license to such person for such purpose would be inimical to the common defense and security or the health and safety of the public.

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## CHAPTER 8. BYPRODUCT MATERIAL

**Sec. 81.**[63] **Domestic Distribution.**—

a. IN GENERAL.—No person may[64] transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, own, possess, import, or export any byproduct material, except to the extent authorized by this section, section 82 or section 84.[65] The Commission is authorized to issue general or specific licenses to applicants seeking to use byproduct material for research or development purposes, for medical therapy, industrial uses, agricultural uses, or such other useful applications as may be developed. The Commission may distribute, sell, loan, or lease such byproduct material as it owns to qualified applicants[66] with or without charge: *Provided, however,* That, for byproduct material to be distributed by the Commission for a charge, the Commission shall establish prices on such equitable basis as, in the opinion of the Commission, (a) will provide reasonable compensation to the Government for such material, (b) will not discourage the use of such material or the development of sources of supply of such material independent of the Commission, and (c) will encourage research and development. In distributing such material, the Commission shall give preference to applicants proposing to use such material either in the conduct of research and development or in medical therapy.[66] The Commission shall not permit the distribution of any byproduct material to any licensee, and shall recall or order the recall of any distributed material from any licensee, who is not equipped to observe or who fails to observe such safety standards to protect health as may be

[61] Sec. 301(b) of Public Law 95–242 (92 Stat. 125) added this sentence.
[62] 42 U.S.C. 2099.
[63] 42 U.S.C. 2111.
[64] Sec. 651(e)(3)(A)(i) of the Energy Policy Act of 2005 (subtitle B of title VI of Public Law 109–58; 119 Stat. 807) struck out "No person may" and inserted in lieu thereof
"a. IN GENERAL.—No person may".
[65] Sec. 205(b) of Public Law 95–604 (92 Stat. 3039) amended and restated the original first sentence of this section, which effectively struck out "by this section or by section 82" and inserted in lieu thereof "by this section, section 82 or section 84".
[66] Sec. 4 of Public Law 93–377 (88 Stat. 475) struck out "licensees" and inserted in lieu thereof "qualified applicants" in the third sentence of this section, and struck out the fifth sentence of this section, which formerly read, "Licensees of the Commission may distribute byproduct material only to applicants therefor who are licensed by the Commission to receive such byproduct material.".

established by the Commission or who uses such material in violation of law or regulation of the Commission or in a manner other than as disclosed in the application therefor or approved by the Commission. The Commission is authorized to establish classes of byproduct material and to exempt certain classes or quantities of material or kinds of uses or users from the requirements for a license set forth in this section when it makes a finding that the exemption of such classes or quantities of such material or such kinds of uses or users will not constitute an unreasonable risk to the common defense and security and to the health and safety of the public.

b.[67] REQUIREMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), byproduct material, as defined in paragraphs (3) and (4) of section 11 e., may only be transferred to and disposed of in a disposal facility that—

(A) is adequate to protect public health and safety; and

(B)(i) is licensed by the Commission; or

(ii) is licensed by a State that has entered into an agreement with the Commission under section 274 b., if the licensing requirements of the State are compatible with the licensing requirements of the Commission.

(2) EFFECT OF SUBSECTION.—Nothing in this subsection affects the authority of any entity to dispose of byproduct material, as defined in paragraphs (3) and (4) of section 11 e., at a disposal facility in accordance with any Federal or State solid or hazardous waste law, including the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

c.[67] TREATMENT AS LOW-LEVEL RADIOACTIVE WASTE.—Byproduct material, as defined in paragraphs (3) and (4) of section 11 e., disposed of under this section shall not be considered to be low-level radioactive waste for the purposes of—

(1) section 2 of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b); or

(2) carrying out a compact that is—

(A) entered into in accordance with that Act (42 U.S.C. 2021b et seq.); and

(B) approved by Congress.

**Sec. 82.[68] Foreign Distribution of Byproduct Material.—**

a. The Commission is authorized to cooperate with any nation by distributing byproduct material, and to distribute byproduct material, pursuant to the terms of an agreement for cooperation to which such nation is party an which is made in accordance with section 123.

b. The Commission is also authorized to distribute byproduct material to any person outside the United States upon application therefor by such person and demand such charge for such materials as would be charged for the material if it were distributed within the United States: *Provided, however,* That the Commission shall not distribute any such material to any person under this section if, in its opinion, such distribution would be inimical to the

[67] Sec. 651(e)(3)(A)(ii) of Public Law 109–58 (119 Stat. 807) added subsecs. b. and c. to sec. 81.

[68] 42 U.S.C. 2112.

common defense and security: *And provided further,* That the Commission may require such reports regarding the use of material distributed pursuant to the provisions of this section as it deems necessary.

c. The Commission is authorized to license others to distribute byproduct material to any person outside the United States under the same conditions, except as to charges, as would be applicable if the material were distributed by the Commission.

**Sec. 83.**[69] **Ownership and Custody of Certain Byproduct Material and Disposal Sites.—**

a. Any license issued or renewed after the effective date of this section under section 62 or section 81 for any activity which results in the production of any byproduct material, as defined in section 11 e. (2), shall contain such terms and conditions as the Commission determines to be necessary to assure that, prior to termination of such license—

(1) the licensee will comply with decontamination, decommissioning, and reclamation standards prescribed by the Commission for sites (A) at which ores were processed primarily for their source material content and (B) at which such byproduct material is deposited, and

(2) ownership of any byproduct material, as defined in section 11 e. (2), which resulted from such licensed activity shall be transferred to (A) the United States or (B) in the State in which such activity occurred if such State exercises the option under subsection b. (1) to acquire land used for the disposal of byproduct material.

Any license which is in effect on the effective date of this section and which is subsequently terminated without renewal shall comply with paragraphs (1) and (2) upon termination.[70]

b. (1)(A) The Commission shall require by rule, regulation, or order that prior to the termination of any license which is issued after the effective date of this section, title to the land, including any interests therein (other than land owned by the United States or by a State) which is used for the disposal of any byproduct material, as defined by section 11 e. (2), pursuant to such license shall be transferred to—

(i) the United States, or

(ii) the State in which such land is located, at the option of such State,

unless the Commission determines prior to such termination that transfer of title to such land and such byproduct material is not necessary or desirable to protect the public health, safety, or welfare or to minimize or eliminate danger to life or property. Such determination shall be made in accordance with section 181 of this Act. Notwithstanding any other provision of law or any such determination, such property and materials shall be maintained pursuant to a license issued by the Commission pursuant to section 81 of this Act in such manner as will protect the public health, safety, and the environment.

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[69] 42 U.S.C. 2113. Sec. 202(a) of Public Law 95–604 (92 Stat. 3033) added sec. 83. Sec. 202(b) of that Act delayed the effective date of sec. 83 until November 8, 1981.

[70] Sec. 22(c) of Public Law 96–106 (93 Stat. 800) amended and restated the last sentence of subsec. a.

(B) If the Commission determines by order that use of the surface or subsurface estates, or both, of the land transferred to the United States or to a State under subparagraph (A) would not endanger the public health, safety, welfare, or environment, the Commission, pursuant to such regulations as it may prescribe, shall permit the use of the surface or subsurface estates, or both, of such land in a manner consistent with the provisions of this section. If the Commission permits such use of such land, it shall provide the person who transferred such land with the right of first refusal with respect to such use of such land.

(2) If transfer to the United States of title to such byproduct material and such land is required under this section, the Secretary of Energy or any Federal agency designated by the President shall, following the Commission's determination of compliance under subsection c., assume title and custody of such byproduct material and land transferred as provided in this subsection. Such Secretary or Federal agency shall maintain such material and land in such manner as will protect the public health and safety and the environment. Such custody may be transferred to another officer or instrumentality of the United States only upon approval of the President.

(3) If transfer to a State of title to such byproduct material is required in accordance with this subsection, such State shall, following the Commission's determination of compliance under subsection d., assume title and custody of such byproduct material and land transferred as provided in this subsection. Such State shall maintain such material and land in such manner as will protect the public health, safety, and the environment.

(4) In the case of any such license under section 62, which was in effect on the effective date of this section, the Commission may require, before the termination of such license, such transfer of land and interest therein (described in paragraph (1) of this subsection) to the United States or a State in which such land is located, at the option of such State, as may be necessary to protect the public health, welfare, and the environment from any effects associated with such byproduct material. In exercising the authority of this paragraph, the Commission shall take into consideration the status of the ownership of such land and interests therein and the ability of the licensee to transfer title and custody thereof to the United States or a State.

(5) The Commission may, pursuant to a license, or by rule or order require the Secretary or other Federal agency or State having custody of such property and materials to undertake such monitoring, maintenance, and emergency measures as are necessary to protect the public health and safety and such other actions as the Commission deems necessary to comply with the standards promulgated pursuant to section 84 of this Act. The Secretary or such other Federal agency is authorized to carry out maintenance, monitoring, and emergency measures, but shall take no other action pursuant to such license, rule or order, with respect to such property and materials unless expressly authorized by Congress after the date of enactment of this Act.

(6) The transfer of title to land or byproduct materials, as defined in section 11 e. (2), to a State or the United States pursuant to this

subsection shall not relieve any licensee of liability for any fraudulent or negligent acts done prior to such transfer.

(7) Material and land transferred to the United States or a State in accordance with this subsection shall be transferred without cost to the United States or a State (other than administrative and legal costs incurred in carrying out such transfer). Subject to the provisions of paragraph (1)(B) of this subsection, the United States or a State shall not transfer title to material or property acquired under this subsection to any person, unless such transfer is in the same manner as provided under section 104(h) of the Uranium Mill Tailings Radiation Control Act of 1978.

(8) The provisions of this subsection respecting transfer of title and custody to land shall not apply in the case of lands held in trust by the United States for any Indian tribe or lands owned by such Indian tribe subject to a restriction against alienation imposed by the United States. In the case of such lands which are used for the disposal of byproduct material, as defined in section 11 e. (2), the licensee shall be required to enter into such arrangements with the Commission as may be appropriate to assure the long-term maintenance and monitoring of such lands by the United States.

c. Upon termination of any license to which this section applies, the Commission shall determine whether or not the licensee has complied with all applicable standards and requirements under such license.

**Sec. 84.**[71] **Authorities of Commission Respecting Certain By-product Material.—**

a. The Commission shall insure that the management of any by-product material, as defined in section 11 e. (2), is carried out in such manner as—

(1) the Commission deems appropriate to protect the public health and safety and the environment from radiological and nonradiological hazards associated with the processing and with the possession and transfer of such material, taking into account the risk to the public health, safety, and the environment, with due consideration of the economic costs and such other factors as the Commission determines to be appropriate,,[72]

(2) conforms with applicable general standards promulgated by the Administrator of the Environmental Protection Agency under section 275, and

(3) conforms to general requirements established by the Commission, with the concurrence of the Administrator, which are, to the maximum extent practicable, at least comparable to requirements applicable to the possession, transfer, and disposal of similar hazardous material regulated by the Administration under Solid Waste Disposal Act, as amended.

b. In carrying out its authority under this section, the Commission is authorized to—

[71] 42 U.S.C. 2114. Sec. 205(a) of Public Law 95–604 (92 Stat. 3039) added sec. 84.

[72] Sec. 22(a) of Public Law 97–415 (96 Stat. 2080) added ", taking into account the risk to the public health, safety, and the environment, with due consideration of the economic costs and such other factors as the Commission determines to be appropriate," resulting in a double comma.

(1) by rule, regulation, or order require persons, officers, or instrumentalities exempted from licensing under section 81 of this Act to conduct monitoring, perform remedial work, and to comply with such other measures as it may deem necessary or desirable to protect health or to minimize danger to life or property, and in connection with the disposal or storage of such byproduct material; and

(2) make such studies and inspections and to conduct such monitoring as may be necessary.

Any violation by any person other than the United States or any officer or employee of the United States or a State of any rule, regulation, or order or licensing provision, of the Commission established under this section or section 83 shall be subject to a civil penalty in the same manner and in the same amount as violations subject to a civil penalty under section 234. Nothing in this section affects any authority of the Commission under any other provision of this Act.

c.[73] In the case of sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 11 e. (2), a licensee may propose alternatives to specific requirements adopted and enforced by the Commission under this Act. Such alternative proposals may take into account local or regional conditions, including geology, topography, hydrology and meteorology. The Commission may treat such alternatives as satisfying Commission requirements if the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 275.

## CHAPTER 9. MILITARY APPLICATION OF ATOMIC ENERGY

**Sec. 91.[74] Authority.—**

a. The Commission is authorized to—

(1) conduct experiments and do research and development work in the military application of atomic energy;[75]

(2) engage in the production of atomic weapons, or atomic weapon parts, except that such activities shall be carried on only to the extent that the express consent and direction of the President of the United States has been obtained, which consent and direction shall be obtained at least once each year;[75]

(3)[75] provide for safe storage, processing, transportation, and disposal of hazardous waste (including radioactive waste) re-

[73] Sec. 20 of Public Law 97–415 (96 Stat. 2079) added subsec. c.

[74] 42 U.S.C. 2121.

[75] Sec. 3157 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1684) struck out "and" at the end of para. (1); struck out a period at the end of para. (2) and inserted in lieu thereof a semicolon; and added new paras. (3) through (5).

sulting from nuclear materials production, weapons production and surveillance programs, and naval nuclear propulsion programs;

(4)[75] carry out research on and development of technologies needed for the effective negotiation and verification of international agreements on control of special nuclear materials and nuclear weapons; and

(5)[75] under applicable law (other than this paragraph) and consistent with other missions of the Department of Energy, make transfers of federally owned or originated technology to State and local governments, private industry, and universities or other nonprofit organizations so that the prospects for commercialization of such technology are enhanced.

b. The President from time to time may direct the Commission (1) to deliver such quantities of special nuclear material or atomic weapons to the Department of Defense for such use as he deems necessary in the interest of national defense, or (2) to authorize the Department of Defense to manufacture, produce, or acquire any atomic weapon or utilization facility for military purposes: *Provided, however*, That such authorization shall not extend to the production of special nuclear material other than that incidental to the operation of such utilization facilities.

c.[76] The President may authorize the Commission or the Department of Defense, with the assistance of the other, to cooperate with another nation and, notwithstanding the provisions of section 57, 62, or 81, to transfer by sale, lease, or loan to that nation, in accordance with terms and conditions of a program approved by the President.

(1) nonnuclear parts of atomic weapons provided that such nation has made substantial progress in the development of atomic weapons, and other nonnuclear parts of atomic weapons systems involving Restricted Data provided that such transfer will not contribute significantly to that nation's atomic weapon design, development, or fabrication capability; for the purpose of improving that nation's state of training and operational readiness;

(2) utilization facilities for military applications; and

(3) source, byproduct, or special nuclear material for research on, development of, production of, or use in utilization facilities for military applications; and

(4) source, byproduct, or special nuclear material for research on, development of, or use in atomic weapons: *Provided, however*, That the transfer of such material to that nation is necessary to improve its atomic weapon design, development, or fabrication capability: *And provided further,* That such nation has made substantial progress in the development of atomic weapons,

whenever the President determines that the proposed cooperation and each proposed transfer arrangement for the nonnuclear parts of atomic weapons and atomic weapons systems, utilization facilities or source, byproduct, or special nuclear material will promote and will not constitute an unreasonable risk to the common defense

[76] Sec. 1 of Public Law 85–479 (72 Stat. 276) added subsec. c.

and security, while such other nation is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however,* That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 123: *And provided further,* That if an agreement for cooperation arranged pursuant to this subsection provides for transfer of utilization facilities for military applications the Commission, or the Department of Defense with respect to cooperation it has been authorized to undertake, may authorize any person to transfer such utilization facilities for military applications in accordance with the terms and conditions of this subsection and of the agreement for cooperation.

**Sec. 92.**[77] **Prohibition.**—

a.[78] It shall be unlawful, except as provided in section 91, for any person, inside or outside of the United States,[79] to participate in the development of,[80] manufacture, produce, transfer, acquire, receive,[81] possess, import,[82] export, or use, or possess and threaten to use,[83] any atomic weapon. Nothing in this section shall be deemed to modify the provisions of subsection 31 a. or section 101.

b.[84] Conduct prohibited by subsection a. is within the jurisdiction of the United States if—

(1) the offense occurs in or affects interstate or foreign commerce; the offense occurs outside of the United States and is committed by a national of the United States;

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[77] 42 U.S.C. 2122. Sec. 2 of Public Law 85–479 (72 Stat. 277) amended and restated sec. 92. Sec. 92 previously read as follows:

"**Sec. 92. Prohibition.**—It shall be unlawful for any person to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, import, or export any atomic weapon, except as may be authorized by the Commission pursuant to the provisions of section 91. Nothing in this section shall be deemed to modify the provisions of subsection 31 a. or section 101.".

[78] Sec. 6904(a)(1) of the Prevention of Terrorist Access to Destructive Weapons Act of 2004 (subtitle J of title VI of Public Law 108–458; 118 Stat. 3771) inserted the subsection designation "a." before "It".

[79] Sec. 6803(b)(1) of the Weapons of Mass Destruction Prohibition Improvement Act of 2004 (subtitle I of title VI of Public Law 108–458; 118 Stat. 3768) inserted ", inside or outside of the United States," after "for any person".

Sec. 6904(a)(2) of the Prevention of Terrorist Access to Destructive Weapons Act of 2004 (subtitle J of title VI of Public Law 108–458; 118 Stat. 3771) sought to insert "knowingly" after "for any person to". With the execution of the amendment provided in sec. 6803(b)(1), however, the latter amendment becomes unexecutable. Sec. 92 a. should probably read, with all amendments executed, as follows:

"a. It shall be unlawful, except as provided in section 91, for any person, inside or outside of the United States, knowingly to participate in the development of, manufacture, produce, transfer, acquire, receive, possess, import, export, or use, or possess and threaten to use, any atomic weapon. Nothing in this section shall be deemed to modify the provisions of subsection 31 a. or section 101.".

[80] Sec. 6803(b)(2) of the Weapons of Mass Destruction Prohibition Improvement Act of 2004 (subtitle I of title VI of Public Law 108–458; 118 Stat. 3768) inserted "participate in the development of," after "interstate or foreign commerce,".

Sec. 6904(a)(4) of the Prevention of Terrorist Access to Destructive Weapons Act of 2004 (subtitle J of title VI of Public Law 108–458; 118 Stat. 3771) subsequently struck out "transfer or receive in interstate or foreign commerce," before "manufacture". The amendment is executed, though the amendment in sec. 6803(b)(2) removes "manufacture" from its proximity to the text to be stricken.

[81] Sec. 6904(a)(5) of the Prevention of Terrorist Access to Destructive Weapons Act of 2004 (subtitle J of title VI of Public Law 108–458; 118 Stat. 3771) inserted "receive," after "acquire".

[82] Sec. 6904(a)(3) of the Prevention of Terrorist Access to Destructive Weapons Act of 2004 (subtitle J of title VI of Public Law 108–458; 118 Stat. 3771) struck out "or" before "export".

[83] Sec. 6904(a)(6) of the Prevention of Terrorist Access to Destructive Weapons Act of 2004 (subtitle J of title VI of Public Law 108–458; 118 Stat. 3771) inserted ", or use, or possess and threaten to use," before "any atomic weapon".

[84] Sec. 6904(a)(7) of the Prevention of Terrorist Access to Destructive Weapons Act of 2004 (subtitle J of title VI of Public Law 108–458; 118 Stat. 3771) added subsec. b.

(2) the offense is committed against a national of the United States while the national is outside the United States;

(3) the offense is committed against any property that is owned, leased, or used by the Untied States or by any department or agency of the United States, whether the property is within or outside the United States; or

(4) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

**SEC. 93.**[85] * * * [Repealed—1999]

## CHAPTER 10. ATOMIC ENERGY LICENSES

**Sec. 101.**[86] **License Required.**—It shall be unlawful, except as provided in section 91, for any person within the United States to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use,[87] import, or export any utilization or production facility except under and in accordance with a license issued by the Commission pursuant to section 103 or 104.

**Sec. 102.**[88] **Utilization and Production Facilities for Industrial or Commercial Purposes.**—

a. Except as provided in subsections b. and c., or otherwise specifically authorized by law, any license hereafter issued for a utilization or production facility for industrial or commercial purposes shall be issued pursuant to section 103.

b. Any license hereafter issued for a utilization or production facility for industrial or commercial purposes, the construction or operation of which was licensed pursuant to subsection 104 b. prior to enactment into law of this subsection, shall be issued under subsection 104 b.

c. Any license for a utilization or production facility for industrial or commercial purposes constructed or operated under an arrangement with the Commission entered into under the Cooperative Power Reactor Demonstration Program shall, except as otherwise specifically required by applicable law, be issued under subsection 104 b.

**Sec. 103.**[89] **Commercial Licenses.**—

a. The Commission is authorized to issue licenses to persons applying therefor to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use,[90] import, or export under the terms of an agreement for cooperation arranged pursu-

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[85] Formerly at 42 U.S.C. 2122a. Sec. 3294(e)(1)(A) of Public Law 106–65 (113 Stat. 970) repealed sec. 93, which had provided for congressional oversight of special access programs, including annual and periodic reports. Sec. 3156 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1953) originally added this section.

[86] 42 U.S.C. 2131.

[87] Sec. 11 of Public Law 84–1006 (70 Stat. 1071) added "use,".

[88] 42 U.S.C. 2132. Sec. 3 of Public Law 91–560 (84 Stat. 1472) amended sec. 102, which previously read as follows:

"**Sec. 102. Finding of Practical Value.**—Whenever the Commission has made a finding in writing that any type of utilization or production facility has been sufficiently developed to be of practical value for industrial or commercial purposes, the Commission may thereafter issue licenses for such type of facility pursuant to section 103.".

[89] 42 U.S.C. 2133.

[90] Sec. 12 of Public Law 84–1006 (70 Stat. 1071) added "use,".

ant to section 123, utilization or production facilities for industrial or commercial purposes.[91] Such licenses shall be issued in accordance with the provisions of chapter 16 and subject to such conditions as the Commission may by rule or regulation establish to effectuate the purposes and provisions of this Act.

b. The Commission shall issue such licenses on a nonexclusive basis to persons applying therefor (1) whose proposed activities will serve a useful purpose proportionate to the quantities of special nuclear material or source material to be utilized; (2) who are equipped to observe and who agree to observe such safety standards to protect health and to minimize danger to life or property as the Commission may by rule establish; and (3) who agree to make available to the Commission such technical information and data concerning activities under such license as the Commission may determine necessary to promote the common defense and security and to protect the health and safety of the public. All such information may be used by the Commission only for the purposes of the common defense and security and to protect the health and safety of the public.

c. Each such license shall be issued for a specified period, as determined by the Commission, depending on the type of activity to be licensed, but not exceeding forty years from the authorization to commence operations,[92] and may be renewed upon the expiration of such period.

d. No license under this section may be given to any person for activities which are not under or within the jurisdiction of the United States, except for the export of production or utilization facilities under terms of an agreement for cooperation arranged pursuant to section 123, or except under the provisions of section 109. No license may be issued to an alien or any[93] corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government. In any event, no license may be issued to any person within the United States if, in the opinion of the Commission, the issuance of a license to such person would be inimical to the common defense and security or to the health and safety of the public.

f.[94] Each license issued for a utilization facility under this section or section 104 b. shall require as a condition thereof that in case of any accident which could result in an unplanned release of quantities of fission products in excess of allowable limits for normal operation established by the Commission, the licensee shall immediately so notify the Commission. Violation of the condition prescribed by this subsection may, in the Commission's discretion, constitute grounds for license revocation. In accordance with section

[91] Sec. 4 of Public Law 91–650 (84 Stat. 1472) amended the first sentence of sec. 103 a., which previously read as follows:

"Subsequent to a finding by the Commission as required in section 102, the Commission may issue licenses to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use, import, or export under the terms of an agreement for cooperation arranged pursuant to section 123, such type of utilization or production facility.".

[92] Sec. 621 of the Energy Policy Act of 2005 (subtitle B of title VI of Public Law 109–58; 119 Stat. 782) inserted "from the authorization to commence operations".

[93] Sec. 13 of Public Law 84–1006 (70 Stat. 1069) added the words "an alien or any".

[94] Sec. 201(a) of Public Law 96–295 (94 Stat. 786) added subsec. f., despite the fact that sec. 103 ended with subsec. d.

187 of this Act, the Commission shall promptly amend each license for a utilization facility issued under this section or section 104 b. which is in effect on the date of enactment of this subsection to include the provision required under this subsection.

**Sec. 104.**[95] **Medical Therapy and Research and Development.—**

a. The Commission is authorized to issue licenses to persons applying therefor for utilization facilities for use in medical therapy. In issuing such licenses the Commission is directed to permit the widest amount of effective medical therapy possible with the amount of special nuclear material available for such purposes and to impose the minimum amount of regulation consistent with its obligations under this Act to promote the common defense and security and to protect the health and safety of the public.

b.[96] As provided for in subsection 102 b. or 102 c., or where specifically authorized by law, the Commission is authorized to issue licenses under this subsection to persons applying therefor for utilization and production facilities for industrial and commercial purposes. In issuing licenses under this subsection, the Commission shall impose the minimum amount of such regulations and terms of license as will permit the Commission to fulfill its obligations under this Act.

c. The Commission is authorized to issue licenses to persons applying therefor for utilization and production facilities useful in the conduct of research and development activities of the types specified in section 31 and which are not facilities of the type specified in subsection 104 b. The Commission is directed to impose only such minimum amount of regulation of the licensee as the Commission finds will permit the Commission to fulfill its obligations under this Act to promote the common defense and security and to protect the health and safety of the public and will permit the conduct of widespread and diverse research and development.

d. No license under this section may be given to any person for activities which are not under or within the jurisdiction of the United States, except for the export of production or utilization facilities under terms of an agreement for cooperation arranged pursuant to section 123 or except under the provisions of section 109. No license may be issued to any corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government. In any event, no license may be issued to any person within the United States if, in the opinion of the Commission, the

[95] 42 U.S.C. 2134.

[96] Sec. 5 of Public Law 91–560 (84 Stat. 1472) amended and restated subsec. b, which previously read as follows:

"b. The Commission is authorized to issue licenses to persons applying therefor for utilization and production facilities involved in the conduct of research and development activities leading to the demonstration of the practical value of such facilities for industrial or commercial purposes. In issuing licenses under this subsection, the Commission shall impose the minimum amount of such regulations and terms of license as will permit the Commission to fulfill its obligations under this Act to promote the common defense and security and to protect the health and safety of the public and will be compatible with the regulations and terms of license which would apply in the event that a commercial license were later to be issued pursuant to section 103 for that type of facility. In issuing such licenses, priority shall be given to those activities which will, in the opinion of the Commission, lead to major advances in the application of atomic energy for industrial or commercial purposes.".

issuance of a license to such person would be inimical to the common defense and security or to the health and safety of the public.

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**Sec. 109.**[97] **Component and Other Parts of Facilities.—**

a. With respect to those utilization and production facilities which are so determined by the Commission pursuant to subsection 11 v. (2) or 11 cc. (2) the Commission may issue general licenses for domestic activities required to be licensed under section 101, if the Commission determines in writing that such general licensing will not constitute an unreasonable risk to the common defense and security.

b. After consulting with the Secretaries of State, Energy, and Commerce,[98] the Commission is authorized and directed to determine which component parts as defined in subsection 11 v. (2) or 11 cc. (2) and which other items or substances are especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes. Except as provided in section 126 b. (2), no such component, substance, or item which is so determined by the Commission shall be exported unless the Commission issues a general or specific license for its export after finding, based on a reasonable judgment of the assurances provided and other information available to the Federal Government, including the Commission, that the following criteria or their equivalent are met: (1) IAEA safeguards as required by Article III (2) of the Treaty will be applied with respect to such component, substance, or item; (2) no such component, substance, or item will be used for any nuclear explosive device or for research on or development of any nuclear explosive device; and (3) no such component, substance, or item will be retransferred to the jurisdiction of any other nation or group of nations unless the prior consent of the United States is obtained for such retransfer; and after determining in writing that the issuance of each such general or specific license or category of licenses will not be inimical to the common defense and security: *Provided,* That a specific license shall not be required for an export pursuant to this section if the component, item or substance is covered by a facility license issued pursuant to section 126 of this Act.

c. The Commission shall not issue an export license under the authority of subsection b. if it is advised by the executive branch, in accordance with the procedures established under subsection 126 a., that the export would be inimical to the common defense and security of the United States.

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**Sec. 111.**[99] a. The Nuclear Regulatory Commission is authorized to license the distribution of special nuclear material, source material, and byproduct material by the Department of Energy pursu-

[97] 42 U.S.C. 2139. Sec. 309(a) of the Nuclear Non-Proliferation Act of 1978 (92 Stat. 141) amended and restated sec. 109. Sec 309(b) of that Act also instructed the Commission to publish regulations to implement the provisions of subsecs. b. and c. of sec. 109. Sec. 309(d) of that same Act also stated that the amendments to sec. 109 would not affect the approval of exports contracted for prior to November 1, 1977, which were made by March 10, 1979.

[98] Sec. 1225(d)(2) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–774) struck out "and the Director" at this point.

[99] 42 U.S.C. 2141. Sec. 301(c) of the Nuclear Non-Proliferation Act of 1978 (Public Law 95–242; 92 Stat. 125). added sec. 111.

ant to sections 54, 64, and 82 of this Act, respectively, in accordance with the same procedures established by law for the export licensing of such material by any person: *Provided,* That nothing in this section shall require the licensing of the distribution of byproduct material by the Department of Energy under section 82 of this Act.

b. The Department of Energy shall not distribute any special nuclear material or source material under section 54 or 64 of this Act other than under an export license issued by the Nuclear Regulatory Commission until (1) the Department has obtained the concurrence of the Department of State and has consulted with the Nuclear Regulatory Commission [100] and the Department of Defense under mutually agreed procedures which shall be established within not more than ninety days after the date of enactment of this provision and (2) the Department finds based on a reasonable judgment of the assurances provided and the information available to the United States Government, that the criteria in section 127 of this Act or their equivalent and any application criteria in subsection 128 are met, and that the proposed distribution would not be inimical to the common defense and security.

## CHAPTER 11. INTERNATIONAL ACTIVITIES

**Sec. 121.**[101] **Effect of International Arrangements.**—Any provision of this Act or any action of the Commission to the extent and during the time that it conflicts with the provisions of any international arrangement made after the date of enactment of this Act shall be deemed to be of no force or effect.

**Sec. 122.**[102] **Policies Contained in International Arrangements.**—In the performance of its functions under this Act, the Commission shall give maximum effect to the policies contained in any international arrangement made after the date of enactment of this Act.

**Sec. 123.**[103] **Cooperation With Other Nations.**—

No cooperation with any nation, group of nations or regional defense organization pursuant to section 53, 54 a., 57, 64, 82, 91, 103, 104, or 144 shall be undertaken until—

a. the proposed agreement for cooperation has been submitted to the President, which proposed agreement shall include the terms, conditions, duration, nature, and scope of the cooperation; and shall include the following requirements:

(1) a guaranty by the cooperating party that safeguards as set forth in the agreement for cooperation will be main-

[100] Sec. 1225(d)(3) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–774) struck out "the Arms Control and Disarmament Agency, the Nuclear Regulatory Commission," and inserted in lieu thereof "the Nuclear Regulatory Commission".

[101] 42 U.S.C. 2151.

[102] 42 U.S.C. 2152.

[103] 42 U.S.C. 2153. Sec. 401 of the Nuclear Non-Proliferation Act of 1978 (Public Law 95–242; 92 Stat. 142) amended and restated sec. 123, which Public Law 85–478 (72 Stat. 276), Public Law 85–681 (72 Stat. 632), and Public Law 88–489 (78 Stat. 602) had previously amended. Sec. 405(a) of the 1978 Act also stated that these amendments to sec. 123 would not affect the authority to continue cooperation pursuant to agreements for cooperation executed prior to March 10, 1978. Sec. 407 of the 1978 Act specified that for any agreement entered into pursuant to sec. 123, the President shall strive to include in such agreement cooperation between the parties in protecting the international environment from radioactive, chemical or thermal contamination arising from peaceful nuclear activities.

tained with respect to all nuclear materials and equipment transferred pursuant thereto, and with respect to all special nuclear material used in or produced through the use of such nuclear materials and equipment, so long as the material or equipment remains under the jurisdiction or control of the cooperating party, irrespective of the duration of other provisions in the agreement or whether the agreement is terminated or suspended for any reason;

(2) in the case of non-nuclear-weapon states, a requirement, as a condition of continued United States nuclear supply under the agreement for cooperation, that IAEA safeguards be maintained with respect to all nuclear materials in all peaceful nuclear activities within the territory of such state, under its jurisdiction, or carried out under its control anywhere;

(3) except in the case of those agreements for cooperation arranged pursuant to subsection 91 c., a guaranty by the cooperating party that no nuclear materials and equipment or sensitive nuclear technology to be transferred pursuant to such agreement, and no special nuclear material produced through the use of any nuclear materials and equipment or sensitive nuclear technology transferred pursuant to such agreement, will be used for any nuclear explosive device, or for research on or development of any nuclear explosive device, or for any other military purpose;

(4) except in the case of those agreements for cooperation arranged pursuant to subsection 91 c. and agreements for cooperation with nuclear-weapon states, a stipulation that the United States shall have the right to require the return of any nuclear materials and equipment transferred pursuant thereto and any special nuclear material produced through the use thereof if the cooperating party detonates a nuclear explosive device or terminates or abrogates an agreement providing for IAEA safeguards;

(5) a guaranty by the cooperating party that any material or any Restricted Data transferred pursuant to the agreement for cooperation and, except in the case of agreements arranged pursuant to subsection 91 c., 144 b., 144 c., or 144 d.,[104] any production or utilization facility transferred pursuant to the agreement for cooperation or any special nuclear material produced through the use of any such facility or through the use of any material transferred pursuant to the agreement, will not be transferred to unauthorized persons or beyond the jurisdiction or control of the cooperating party without the consent of the United States;

(6) a guaranty by the cooperating party that adequate physical security will be maintained with respect to any nuclear material transferred pursuant to such agreement and with respect to any special nuclear material used in or produced through the use of any material, production

[104] Sec. 3155(c)(1)(A) of Public Law 103–337 (108 Stat. 3092) struck out "or 144 c." wherever it appeared in sec. 123, inserting in lieu thereof "144 c., or 144 d.".

facility, or utilization facility transferred pursuant to such agreement;

(7) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b., 144 c., or 144 d.,[104] a guaranty by the cooperating party that no material transferred pursuant to the agreement for cooperation and no material used in or produced through the use of any material, production facility, or utilization facility transferred pursuant to the agreement for cooperation will be reprocessed, enriched or (in the case of plutonium, uranium 233, or uranium enriched to greater than twenty percent in the isotope 235, or other nuclear material which have been irradiated) otherwise altered in form or content without the prior approval of the United States;

(8) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b., 144 c., or 144 d.,[104] a guaranty by the cooperating party that no plutonium, no uranium 223, and no uranium enriched to greater than twenty percent in the isotope 235, transferred pursuant to the agreement for cooperation or recovered from any source or special nuclear material used in any production facility or utilization facility transferred pursuant to the agreement for cooperation, will be stored in any facility that has not been approved in advance by the United States; and

(9) except in the case of agreements for cooperation arranged pursuant to subsection 91 c., 144 b., 144 c., or 144 d.,[104] a guaranty by the cooperation party that any special nuclear material, production facility, or utilization facility produced or constructed under the jurisdiction of the cooperating party by or through the use of any sensitive nuclear technology transferred pursuant to such agreement for cooperation will be subject to all the requirements specified in this subsection.

The President may exempt a proposed agreement for cooperation (except an agreement arranged pursuant to subsection 91 c., 144 b., 144 c., or 144 d.)[104] from any of the requirements of the foregoing sentence if he determines that inclusion of any such requirement would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize that common defense and security. Except in the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., 144 c., or 144 d.,[104] any proposed agreement for cooperation shall be negotiated by the Secretary of State, with the technical assistance and concurrence of the Secretary of Energy;[105] and after consultation with the Commission shall be submitted to the President jointly by the Secretary of State and the Secretary of Energy accompanied by the views and recommendation of the Secretary of State, the

[105] Sec. 1225(d)(4)(A)(i) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–774) struck out "and in consultation with the Director of the Arms Control and Disarmament Agency ('the Director')".

Secretary of Energy, and[106] the Nuclear Regulatory Commission. The Secretary of State[107] shall also provide to the President an unclassified Nuclear Proliferation Assessment Statement (A) which shall analyze the consistency of the text of the proposed agreement for cooperation with all the requirements of this Act, with specific attention to whether the proposed agreement is consistent with each of the criteria set forth in this subsection, and (B)[108] regarding the adequacy of the safeguards and other control mechanisms and the peaceful use assurances contained in the agreement for cooperation to ensure that any assistance furnished thereunder will not be used to further any military or nuclear explosive purpose. Each Nuclear Proliferation Assessment Statement prepared pursuant to this Act shall be accompanied by a classified annex prepared in consultation with the Director of Central Intelligence, summarizing relevant classified information.[109] In the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., 144 c., or 144 d.,[104] any proposed agreement for cooperation shall be submitted to the President by the Secretary of Energy or, in the case of those agreements for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 d.,[110] which are to be implemented by the Department of Defense, by the Secretary of Defense;

b. the President has submitted text of the proposed agreement for cooperation (except an agreement arranged pursuant to section 91 c., 144 b., 144 c., or 144 d.),[111] together with the accompanying unclassified Nuclear Proliferation Assessment Statement, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs[112] of the House of Representatives, the President has consulted with such Committees for a period of not less than thirty days of continuous session (as defined in section 130 g. of this Act) concerning the consistency of the terms of the proposed agreement with all the requirements of this Act, and[113] the President has approved and authorized the execution of the proposed agreement for co-

[106] Sec. 1225(d)(4)(A)(ii) of Public Law 105–277 (112 Stat. 2681–774) inserted "and" after "Energy,".

[107] Sec. 1225(d)(4)(A)(iii) of Public Law 105–277 (112 Stat. 2681–774) struck out "Commission, and the Director, who" and inserted in lieu thereof "Commission. The Secretary of State".

[108] Sec. 301(a)(1) of the Export Administration Amendments Act of 1985 (Public Law 99–64; 99 Stat. 159) added "(A) which shall analyze the consistency of the text of the proposed agreement for cooperation with all the requirements of this Act, with specific attention to whether the proposed agreement is consistent with each of the criteria set forth in this subsection, and (B)".

[109] Sec. 1225(d)(4)(A)(iv) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–774) added this sentence.

[110] Sec. 3155(c)(1)(B) of Public Law 103–337 (108 Stat. 3092) struck out "or 144 b." and inserted in lieu thereof "144 b., or 144 d.". Sec. 1505(g) of Public Law 104–106 (110 Stat. 515) subsequently inserted a comma preceding "144 b".

[111] Sec. 3155(c)(1)(C) of Public Law 103–337 (108 Stat. 3092) inserted the parenthetical text.

[112] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[113] Sec. 301(a)(2) of Public Law 99–64 (99 Stat. 159) added "the President has submitted text of the proposed agreement for cooperation, together with the accompanying unclassified Nuclear Proliferation Assessment Statement, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, the President has consulted with such Committees for a period of not less than thirty days of continuous session (as defined in section 130 g. of this Act) concerning the consistency of the terms of the proposed agreement with all the requirements of this Act, and".

operation and has made a determination in writing that the performance of the proposed agreement will promote, and will not constitute an unreasonable risk to, the common defense and security;[114]

c. the proposed agreement for cooperation (if not an agreement subject to subsection d.), together with the approval and determination of the President, has been submitted to the Committee on Foreign Affairs[115] of the House of Representatives and the Committee on Foreign Relations of the Senate for a period of thirty days of continuous session (as defined in subsection 130 g.): *Provided, however*, That these committees, after having received such agreement for cooperation, may by resolution in writing waive the conditions of all or any portion of such thirty-day period; and

d.[116] the proposed agreement for cooperation (if arranged pursuant to subsection 91 c., 144 b., 144 c., or 144 d.,[104] or if entailing implementation of section 53, 54 a., 103, or 104 in relation to a reactor that may be capable of producing more than five thermal megawatts or special nuclear material for use in connection therewith) has been submitted to the Congress, together with the approval and determination of the President, for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act) and referred to the Committee on

[114] The President has made several such determinations related to agreements for cooperation, as follows: No. 98–1 concerning the Agreement for Cooperation Between the Government of the United States of America and the Swiss Federal Council Concerning Peaceful Uses of Nuclear Energy (62 F.R. 55139; October 22, 1997); No. 98–5 concerning the Agreement for Cooperation Between the Government of the United States of America and the Republic of Kazakhstan Concerning Peaceful Uses of Nuclear Energy (62 F.R. 63619; December 1, 1997); No. 98–21 concerning the Agreement for Cooperation Between the Government of the United States of America and Ukraine Concerning Peaceful Uses of Nuclear Energy (63 F.R. 26419; May 12, 1998); No. 98–33 concerning the Agreement for Cooperation Between the Government of the United States of America and the Government of Romania Concerning Peaceful Uses of Nuclear Energy (63 F.R. 39695; July 23, 1998); No. 99–30 concerning the Protocol Amending the Agreement for Cooperation Concerning Civil Uses of Atomic Energy Between the Government of the United States of America and the Government of Canada signed at Washington on June 15, 1955 (64 F.R. 35921; July 2, 1999); No. 00–3 concerning the proposed Agreement for Cooperation Between the United States of America and Australia Concerning Technology for the Separation of Isotopes and Uranium by Laser Excitation (64 F.R. 58757; November 1, 1999); No. 2000–26 concerning the Agreement for Cooperation Between the United States of America and the Republic of Turkey Concerning Peaceful Uses of Nuclear Energy (65 F.R. 44403; July 18, 2000); No. 2001–25 concerning the Proposed Protocol Amending the Agreement for Cooperation Between the Government of the United States of America and the Government of the Kingdom of Morocco Concerning Peaceful Uses of Nuclear Energy (66 F.R. 46695; September 7, 2001); No. 2008–8 concerning the Proposed Agreement for Cooperation Between the United States of America and the Republic of Turkey Concerning Peaceful Uses of Nuclear Energy (73 F.R. 6567; February 4, 2008); No. 2008–19 concerning the Proposaed Agreement Between the Government of the United States of America and the Government of the Russian Federation for Cooperation in the Field of Peaceful Uses of Nuclear Energy (73 F.R. 27719; May 14, 2008); No. 2008–26 concerning the Proposed Agreement for Cooperation Between the Government of the United States of America and the Government of India Concerning Peaceful Uses of Nuclear Energy (73 F.R. 54287; September 18, 2008); and No. 2009–7 concerning the Proposed Agreement for Cooperation Between the Government of the United States of America And the Government of the United Arab Emirates Concerning Peaceful Uses of Nuclear Energy (73 F.R. 70583; November 21, 2008).

[115] Sec. 15(f)(5) of Public Law 103–437 (108 Stat. 4592) struck out "International Relations" and inserted in lieu thereof "Foreign Affairs". Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) subsequently provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[116] Sec. 3155(b) of Public Law 103–337 (108 Stat. 3092) provided the following:

"(b) APPLICABILITY OF NOTICE AND WAIT PROVISIONS.—Section 123 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2153(d)), as amended by subsection (c), shall not apply to a proposed agreement for cooperation under section 144 d. of such Act, as inserted by subsection (a), until December 31, 1995.".

Foreign Affairs [115, 116] of the House of Representatives and the Committee on Foreign Relations of the Senate, and in addition, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., 144 c., or 144 d.,[104] the Committee on Armed Services [117] of the House of Representatives and the Committee on Armed Services of the Senate, but such proposed agreement for cooperation shall not become effective if during such sixty-day period the Congress adopts, and there is enacted, a joint resolution [118] stating in substance that the Congress does not favor the proposed agreement for cooperation: *Provided,* That the sixty-day period shall not begin until a Nuclear Proliferation Assessment Statement prepared by the Secretary of State, and any annexes thereto,[119] when required by subsection 123 a., have been [120] submitted to the Congress: *Provided further,* That an agreement for cooperation exempted by the President pursuant to subsection a. from any requirement contained in that subsection shall not become effective unless the Congress adopts, and there is enacted, a joint resolution stating that the Congress does favor such agreement.[121] During the sixty-day period the Committee on Foreign Affairs [115, 117] of the House of Representatives and the Committee on Foreign Relations of the Senate shall each hold hearings on the proposed agreement for cooperation and submit a report to their respective bodies recommending whether it should be approved or disapproved.[122] Any such proposed agreement for cooperation shall be considered pursuant to the procedures set forth in section 130 i. of this Act for the consideration of Presidential submissions.

Following submission of a proposed agreement for cooperation (except an agreement for cooperation arranged pursuant to subsection 91 c., 144 b., 144 c., or 144 d.) [104] to the Committee on Foreign Affairs [115] of the House of Representatives and the Committee on Foreign Relations of the Senate, the Nuclear Regulatory Commission, the Department of State, the Department of Energy,[123] and the Department of Defense shall, upon the request of either of those committees, promptly furnish to those committees their views as to whether the safeguards and other controls contained therein provide an adequate framework to ensure that any exports as con-

[117] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

[118] Sec. 301(b)(1) of Public Law 99–64 (99 Stat. 160) struck out "adopts a concurrent resolution" and inserted in lieu thereof "adopts, and there is enacted, a joint resolution".

[119] Sec. 1225(d)(4)(B)(i) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–774) struck out "Nuclear Proliferation Assessment Statement prepared by the Director of the Arms Control and Disarmament Agency," and inserted in lieu thereof "Nuclear Proliferation Assessment Statement prepared by the Secretary of State, and any annexes thereto,".

[120] Sec. 1225(d)(4)(B)(ii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–774) struck out "has been" and inserted in lieu thereof "have been".

[121] Sec. 301(b)(2) of Public Law 99–64 (99 Stat. 160) added the second proviso of subsec. d.

[122] Sec. 301(a)(3) of Public Law 99–64 (99 Stat. 160) added this sentence.

[123] Sec. 1225(d)(4)(C) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–774) struck out "the Arms Control and Disarmament Agency,".

templated by such agreement will not be inimical to or constitute an unreasonable risk to the common defense and security.

If, after the date of enactment of the Nuclear Non-Proliferation Act of 1978, the Congress fails to disapprove a proposed agreement for cooperation which exempts the recipient nation from the requirement set forth in subsection 123 a. (2), such failure to act shall constitute a failure to adopt a resolution of disapproval pursuant to subsection 128 b. (3) for purposes of the Commission's consideration of applications and requests under section 126 a. (2) and there shall be no congressional review pursuant to section 128 of any subsequent license or authorization with respect to that state until the first such license or authorization which is issued after twelve months from the elapse of the sixty-day period in which the agreement for cooperation in question is reviewed by the Congress.

e.[124] The President shall keep the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate fully and currently informed of any initiative or negotiations relating to a new or amended agreement for peaceful nuclear cooperation pursuant to this section (except an agreement arranged pursuant to section 91 c., 144 b., 144 c., or 144 d., or an amendment thereto).

**Sec. 124.**[125] **International Atomic Pool.**—The President is authorized to enter into an international arrangement with a group of nations providing for international cooperation in the nonmilitary applications of atomic energy and he may thereafter cooperate with that group of nations pursuant to sections 54 a., 57, 64, 82, 103, 104, or 114 a.: *Provided, however,* That the cooperation is undertaken pursuant to an agreement for cooperation entered into in accordance with section 123.

**Sec. 125.**[126] **Cooperation With Berlin.**—The President may authorize the Commission to enter into agreement for cooperation with the Federal Republic of Germany in accordance with section 123, on behalf of Berlin, which for the purposes of this Act comprises those areas over which the Berlin Senate exercises jurisdiction (the United States, British, and French sectors) and the Commission may thereafter cooperate with Berlin pursuant to sections 54 a., 57, 64, 82, 103, or 104: *Provided,* That the guaranties required by section 123 shall be made by Berlin with the approval of the allied commandants.

**Sec. 126.**[127] **Export Licensing Procedures.**—

a. No license may be issued by the Nuclear Regulatory Commission (the "Commission") for the export of any production or utilization facility, or any source material or special nuclear material, including distributions of any material by the Department of Energy under section 54, 64, or 82, for which a license is required or requested, and no exemption from any requirement for such an export license may be granted by the Commission, as the case may be, until—

[124] Sec. 202 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act (Public Law 110–369; 122 Stat. 4033) added subsec. e.

[125] 42 U.S.C. 2154.

[126] Public Law 85–14 (71 Stat. 11) added sec. 125.

[127] 42 U.S.C. 2155. Sec. 304(a) of the Nuclear Non-Proliferation Act of 1978 (Public Law 95–242; 92 Stat. 131) added sec. 126.

(1) The Commission has been notified by the Secretary of State that it is the judgment of the executive branch that the proposed export or exemption will not be inimical to the common defense and security, or that any export in the category to which the proposed export belongs would not be inimical to the common defense and security because it lacks significance for nuclear explosive purposes. The Secretary of State shall, within ninety days after the enactment of this section, establish orderly and expeditious procedures,[128] including provision for necessary administrative actions and inter-agency memoranda of understanding, which are mutually agreeable to the Secretaries of Energy, Defense, and Commerce, and the Nuclear Regulatory Commission,[129] for the preparation of the executive branch judgment on export applications under this section. Such procedures shall include, at a minimum, explicit direction on the handling of such applications, express deadlines for the solicitation and collection of the views of the consulted agencies (with identified officials responsible for meeting such deadlines), an inter-agency coordinating authority to monitor the processing of such applications, predetermined procedures for the expeditious handling of intra-agency and inter-agency disagreements and appeals to higher authorities, frequent meetings of inter-agency administrative coordinators to review the status of all pending applications, and similar administrative mechanisms. To the extent practicable, an applicant should be advised of all the information required of the applicant for the entire process for every agency's needs at the beginning of the process. Potentially controversial applications should be identified as quickly as possible so that any required policy decisions or diplomatic consultations can be initiated in a timely manner. An immediate effort should be undertaken to establish quickly any necessary standards and criteria, including the nature of any required assurances or evidentiary showings, for the decisions required under this section. The processing of any export application proposed and filed as of the date of enactment of this section shall not be delayed pending the development and establishment of procedures to implement the requirements of this section. The executive branch judgment shall be completed in not more than sixty days from receipt of the application or request, unless the Secretary of State in his discretion specifically authorizes additional time for consideration of the application or request because it is in the national interest to allow such additional time. The Secretary shall notify the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs[115] of the House of Representatives of any such authorization. In submitting any such judgment, the Secretary of State shall specifically address the extent to which the export criteria then in effect are met and the extent to which the cooperating party has adhered

[128] See text of procedures in *Legislation on Foreign Relations Through 2005*, vol. V, sec. L.

[129] Sec. 1225(d)(5) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–774) struck out "the Director of the Arms Control and Disarmament Agency, and the Nuclear Regulatory Commission" and inserted in lieu thereof "and the Nuclear Regulatory Commission,".

to the provision of the applicable agreement for cooperation. In the event he considers it warranted, the Secretary may also address the following additional factors, among others:

(A) whether issuing the license or granting the exemption will materially advance the non-proliferation policy of the United States by encouraging the recipient nation to adhere to the Treaty, or to participate in the undertakings contemplated by section 403 or 404(a) of the Nuclear Non-Proliferation Act of 1978;

(B) whether failure to issue the license or grant the exemption would otherwise be seriously prejudicial to the non-proliferation objectives of the United States; and

(C) whether the recipient nation or group of nations has agreed that conditions substantially identical to the export criteria set forth in section 127 of this Act will be applied by another nuclear supplier nation or group of nations to the proposed United States export, and whether in the Secretary's judgment those conditions will be implemented in a manner acceptable to the United States.

The Secretary of State shall provide appropriate data and recommendations, subject to requests for additional data and recommendations, as required by the Commission or the Secretary of Energy, as the case may be; and

(2) the Commission finds, based on a reasonable judgment of the assurances provided and other information available to the Federal Government, including the Commission, that the criteria in section 127 of this Act or their equivalent, and any other applicable statutory requirements, are met: *Provided,* That continued cooperation under an agreement for cooperation as authorized in accordance with section 124 of this Act shall not be prevented by failure to meet the provisions of paragraph (4) or (5) of section 127 for a period of thirty days after enactment of this section, and for a period of twenty-three months thereafter if the Secretary of State notifies the Commission that the nation or group of nations bound by the relevant agreement has agreed to negotiations as called for in section 404(a) of the Nuclear Non-Proliferation Act of 1978; however, nothing in this subsection shall be deemed to relinquish any rights which the United States may have under agreements for cooperation in force on the date of enactment of this section: *Provided further,* That if, upon the expiration of such twenty-four month period, the President determines that failure to continue cooperation with any group of nations which has been exempted pursuant to the above proviso from the provisions of paragraph (4) or (5) of section 127 of this Act, but which has not yet agreed to comply with those provisions would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, he may, after notifying the Congress of his determination, extend by Executive order the duration of the above proviso for a period of twelve months, and may further extend the duration of such proviso by one year increments annually thereafter if he again makes such determination and so notifies the Congress. In the event that the

Committee on Foreign Affairs[115] of the House of Representatives or the Committee on Foreign Relations of the Senate reports a joint resolution to take any action with respect to any such extension, such joint resolution will be considered in the House or Senate, as the case may be, under procedures identical to those provided for the consideration of resolutions pursuant to section 130 of this Act; *And additionally provided,* That the Commission is authorized to (A) make a single finding under this subsection for more than a single application or request, where the applications or requests involve exports to the same country, in the same general time frame, of similar significance for nuclear explosive purposes and under reasonably similar circumstances and (B) make a finding under this subsection that there is no materially changed circumstance associated with a new application or request from those existing at the time of the last application or request for an export to the same country, where the prior application or request was approved by the Commission using all applicable procedures of this section, and such finding of no materially changed circumstance shall be deemed to satisfy the requirement of this paragraph for findings of the Commission. The decision not to make any such findings in lieu of the findings which would otherwise be required to be made under this paragraph shall not be subject to judicial review: *And provided further,* That nothing contained in this section is intended to require the Commission independently to conduct or prohibit the Commission from independently conducting country or site specific visitations in the Commission's consideration of the application of IAEA safeguards.

b. (1) Timely consideration shall be given by the Commission to requests for export licenses and exemptions and such requests shall be granted upon a determination that all applicable statutory requirements have been met.

(2) If, after receiving the executive branch judgment that the issuance of a proposed export license will not be inimical to the common defense and security, the Commission does not issue the proposed license on a timely basis because it is unable to make the statutory determinations required under this Act, the Commission shall publicly issue its decision to that effect, and shall submit the license application to the President. The Commission's decision shall include an explanation of the basis for the decision and any dissenting or separate views. If, after receiving the proposed license application and reviewing the Commission's decision, the President determines that withholding the proposed export would be seriously prejudicial to the achievement of United States non-proliferation objectives, or would otherwise jeopardize the common defense and security, the proposed export may be authorized by Executive order.[130] *Provided,* That prior to any such export, the President

[130] Pursuant to Presidential Memorandum of October 3, 1980 (45 F.R. 67629; October 14, 1980), the Secretary of State is authorized to determine the "time, terms, and conditions of exports made pursuant to any Executive Order" issued under this paragraph. This memorandum also authorized the Secretary, on behalf of the President, to issue "such rules, regulations and procedures" as deemed necessary in order to exercise the functions delegated by the memorandum.

shall submit the Executive order, together with his explanation of why, in light of the Commission's decision, the export should nonetheless be made, to the Congress for a period of sixty days of continuous session (as defined in subsection 130 g.) and shall be referred to the Committee on Foreign Affairs [115] of the House of Representatives and the Committee on Foreign Relations of the Senate, but any such proposed export shall not occur if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the proposed export. Any such Executive order shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions: *And provided further,* That the procedures established pursuant to subsection (b) of section 304 of the Nuclear Non-Proliferation Act of 1978 shall provide that the Commission shall immediately initiate review of any application for a license under this section and to the maximum extent feasible shall expeditiously process the application concurrently with the executive branch review, while awaiting the final executive branch judgment. In initiating its review, the Commission may identify a set of concerns and requests for information associated with the projected issuance of such licenses and shall transmit such concerns and requests to the executive branch which shall address such concerns and requests in its written communications with the Commission. Such procedures shall also provide that if the Commission has not completed action on the application within sixty days after the receipt of an executive branch judgment that the proposed export or exemption is not inimical to the common defense and security or that any export in the category to which the proposed export beings would not be inimical to the common defense and security because it lacks significance for nuclear explosive purposes, the Commission shall inform the applicant in writing of the reason for delay and provide follow-up reports as appropriate. If the Commission has not completed action by the end of any additional sixty days (a total of one hundred and twenty days from receipt of the executive branch judgment), the President may authorize the proposed export by Executive order, upon a finding that further delay would be excessive and upon making the findings required for such Presidential authorizations under this subsection, and subject to the Congressional review procedures set forth herein. However, if the Commission has commenced procedures for public participation regarding the proposed export under regulations promulgated pursuant to subsection (b) of section 304 of the Nuclear Non-Proliferation Act of 1978, or—within sixty days after receipt of the executive branch judgment on the proposed export—the Commission has identified and transmitted to the executive branch a set of additional concerns or requests for information, the President may not authorize the proposed export until sixty days after public proceedings are completed or sixty days after a full executive branch response to the Commission's additional concerns or requests has been made consistent with subsection a. (1) of this section: *Provided further,* That nothing in this section shall affect the right of the Commission to obtain data and recommendations from the Sec-

retary of State at any time as provided in subsection a. (1) of this section.

c. In the event that the House of Representatives or the Senate passes a joint resolution which would adopt one or more additional export criteria, or would modify any existing export criteria under this Act, any such joint resolution shall be referred in the other House to the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs[115] of the House of Representatives, as the case may be, and shall be considered by the other House under applicable procedures provided for the consideration of resolutions pursuant to section 130 of this Act.

**Sec. 127.**[131] **Criteria Governing United States Nuclear Exports.—**

The United States adopts the following criteria which, in addition to other requirements of law, will govern exports for peaceful nuclear uses from the United States of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology:

(1) IAEA safeguards as required by Article III(2) of the Treaty will be applied with respect to any such material or facilities proposed to be exported, to any such material or facilities proposed to be exported, to any such material or facilities previously exported and subject to the applicable agreement for cooperation, and to any special nuclear material used in or produced through the use thereof.

(2) No such material, facilities, or sensitive nuclear technology proposed to be exported or previously exported and subject to the applicable agreement for cooperation, and no special nuclear material produced through the use of such materials, facilities, or sensitive nuclear technology, will be used for any nuclear explosive device or for research on or development of any nuclear explosive device.

(3) Adequate physical security measures will be maintained with respect to such material or facilities proposed to be exported and to any special nuclear material used in or produced through the use thereof. Following the effective date of any regulations promulgated by the Commission pursuant to section 304(d) of the Nuclear Non-Proliferation Act of 1978, physical security measures shall be deemed adequate if such measures provide a level of protection equivalent to that required by the applicable regulations.

(4) No such materials, facilities, or sensitive nuclear technology proposed to be exported, and no special nuclear material produced through the use of such material, will be retransferred to the jurisdiction of any other nation or group of nations unless the prior approval of the United States is obtained for such retransfer. In addition to other requirements of law, the United States may approve such retransfer only if the nation or group of nations designated to receive such retransfer agrees that it shall be subject to the conditions required by this section.

[131] 42 U.S.C. 2156. Sec. 305 of the Nuclear Non-Proliferation Act of 1978 (Public Law 95–242; 92 Stat 136) added sec. 127.

(5) No such material proposed to be exported and no special nuclear material produced through the use of such material will be reprocessed, and no irradiated fuel elements containing such material removed from a reactor shall be altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration.

(6) No such sensitive nuclear technology shall be exported unless the foregoing conditions shall be applied to any nuclear material or equipment which is produced or constructed under the jurisdiction of the recipient nation or group of nations by or through the use of any such exported sensitive nuclear technology.

**Sec. 128.**[132] **Additional Export Criterion and Procedures.**—

a. (1) As a condition of continued United States export of source material, special nuclear material, production or utilization facilities, and any sensitive nuclear technology to non-nuclear-weapon states, no such export shall be made unless IAEA safeguards are maintained with respect to all peaceful nuclear activities in, under the jurisdiction of, or carried out under the control of such state at the time of the export.

(2) The President shall seek to achieve adherence to the foregoing criterion by recipient non-nuclear-weapon states.

b. The criterion set forth in subsection a. shall be applied as an export criterion with respect to any application for the export of materials, facilities, or technology specified in subsection a. which is filed after eighteen months from the date of enactment of this section, or for any such application under which the first export would occur at least twenty-four months after the date of enactment of this section, except as provided in the following paragraphs:

(1) If the Commission or the Department of Energy, as the case may be, is notified that the President has determined that failure to approve an export to which this subsection applies because such criterion has not yet been met would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, the license or authorization may be issued subject to other applicable requirements of law: *Provided,* That no such export of any production or utilization facility or of any source or special nuclear material (intended for use as fuel in any production or utilization facility) which has been licensed or authorized pursuant to this subsection shall be made to any non-nuclear-weapon state which has failed to meet such criterion until the first such license or authorization with respect to such state is submitted to the Congress (together with a detailed assessment of the reasons underlying the President's determination, the judgment of the executive branch required under section 126 of this Act, and any Commission opinion and views) for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act) and referred to the Com-

[132] 42 U.S.C. 2157. Sec. 306 of the Non-Proliferation Act of 1978 (92 Stat. 137) added sec. 128.

mittee on Foreign Affairs[133] of the House of Representatives and the Committee on Foreign Relations of the Senate, but such export shall not occur if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that the Congress does not favor the proposed export. Any such license or authorization shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions.

(2) If the Congress adopts a resolution of disapproval pursuant to paragraph (1), no further export of materials, facilities, or technology specified in subsection a. shall be permitted for the remainder of that Congress, unless such state meets the criterion or the President notifies the Congress that he has determined that significant progress has been made in achieving adherence to such criterion by such state or that United States foreign policy interests dictate reconsideration and the Congress, pursuant to the procedure of paragraph (1), does not adopt a concurrent resolution stating in substance that it disagrees with the President's determination.

(3) If the Congress does not adopt a resolution of disapproval with respect to a license or authorization submitted pursuant to paragraph (1), the criterion set forth in subsection a. shall not be applied as an export criterion with respect to exports of materials, facilities and technology specified in subsection a. to that state: *Provided,* That the first license or authorization with respect to that state which is issued pursuant to this paragraph after twelve months from the elapse of the sixty-day period specified in paragraph (1), and the first such license or authorization which is issued after each twelve-month period thereafter, shall be submitted to the Congress for review pursuant to the procedures specified in paragraph (1): *Provided further,* That if the Congress adopts a resolution of disapproval during any review period provided for by this paragraph, the provisions of paragraph (2) shall apply with respect to further exports to such state.

**Sec. 129.[134] Conduct Resulting in Termination of Nuclear Exports.—**

a.[135] No nuclear materials and equipment or sensitive nuclear technology shall be exported to—

(1) any non-nuclear-weapon state that is found by the President to have, at any time after the effective date of this section,

(A) detonated a nuclear explosive device; or

(B) terminated or abrogated IAEA safeguards; or

(C) materially violated an IAEA safeguards agreement; or

[133] Sec. 15(f)(5) of Public Law 103–437 (108 Stat. 4592) struck out "International Relations" and inserted in lieu thereof "Foreign Affairs". Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) subsequently provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

[134] 42 U.S.C. 2158. Sec. 307 of the Nuclear Non-Proliferation Act of 1978 (Public Law 95–242; 92 Stat. 138) added sec. 129.

[135] Sec. 632(a)(1) of the Energy Policy Act of 2005 (subtitle B of title VI of Public Law 109–58; 119 Stat. 788) added "a."

(D) engaged in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices, and has failed to take steps which, in the President's judgment, represent sufficient progress toward terminating such activities; or

(2) any nation or group of nations that is found by the President to have, at any time after the effective date of this section,

(A) materially violated an agreement for cooperation with the United States, or, with respect to material or equipment not supplied under an agreement for cooperation, materially violated the terms under which such material or equipment was supplied or the terms of any commitments obtained with respect thereto pursuant to section 402(a) of the Nuclear Non-Proliferation Act of 1978; or

(B) assisted, encouraged, or induced any non-nuclear-weapon state to engage in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices, and has failed to take steps which, in the President's judgment, represent sufficient progress toward terminating such assistance, encouragement, or inducement; or

(C) entered into an agreement after the date of enactment of this section for the transfer of reprocessing equipment, materials, or technology to the sovereign control of a non-nuclear-weapon state except in connection with an international fuel cycle evaluation in which the United States is a participant or pursuant to a subsequent international agreement or understanding to which the United States subscribes;

unless the President determines[136] that cessation of such exports would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security: *Provided,* That prior to the effective date of any such determination, the President's determination, together with a report containing the reasons for his determination, shall be submitted to the Congress and referred to the Committee on Foreign Affairs[133] of the House of Representatives and the Committee on Foreign Relations of the Senate for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act), but any such determination shall not become effective if during such sixty-day period the Congress adopts, and there is enacted, a joint resolution[137] stating in substance that it does not favor the determination. Any such determination shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions.

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[136] The President made such a determination relating to Romania on August 30, 1993 (Presidential Determination No. 93–36; 58 F.R. 48261; September 15, 1993).

[137] Sec. 203 of Public Law 110–369 (United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act; 122 Stat. 4033) struck out "Congress adopts a concurrent resolution" and inserted in lieu thereof "Congress adopts, and there is enacted, a joint resolution".

b.(1)[138] Notwithstanding any other provision of law, including specifically section 121 of this Act, and except as provided in paragraphs (2) and (3), no nuclear materials and equipment or sensitive nuclear technology, including items and assistance authorized by section 57 b. of this Act and regulated under part 810 of title 10, Code of Federal Regulations, and nuclear-related items on the Commerce Control List maintained under part 774 of title 15 of the Code of Federal Regulations, shall be exported or reexported, or transferred or retransferred whether directly or indirectly, and no Federal agency shall issue any license, approval, or authorization for the export or reexport, or transfer, or retransfer, whether directly or indirectly, of these items or assistance (as defined in this paragraph) to any country whose government has been identified by the Secretary of State as engaged in state sponsorship of terrorist activities (specifically including any country the government of which has been determined by the Secretary of State under section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) to have repeatedly provided support for acts of international terrorism).

(2) This subsection shall not apply to exports, reexports, transfers, or retransfers of radiation monitoring technologies, surveillance equipment, seals, cameras, tamper-indication devices, nuclear detectors, monitoring systems, or equipment necessary to safely store, transport, or remove hazardous materials, whether such items, services, or information are regulated by the Department of Energy, the Department of Commerce, or the Commission, except to the extent that such technologies, equipment, seals, cameras, devices, detectors, or systems are available for use in the design or construction of nuclear reactors or nuclear weapons.

(3) The President may waive the application of paragraph (1) to a country if the President determines and certifies to Congress that the waiver will not result in any increased risk that the country receiving the waiver will acquire nuclear weapons, nuclear reactors, or any materials or components of nuclear weapons and—

(A) the government of such country has not within the preceding 12-month period willfully aided or abetted the international proliferation of nuclear explosive devices to individuals or groups or willfully aided and abetted an individual or groups in acquiring unsafeguarded nuclear materials;

(B) in the judgment of the President, the government of such country has provided adequate, verifiable assurances that it will cease its support for acts of international terrorism;

(C) the waiver of that paragraph is in the vital national security interest of the United States; or

[138] Sec. 632(a)(2) of the Energy Policy Act of 2005 (subtitle B of title VI of Public Law 109–58; 119 Stat. 788) added subsec. b. Sec. 632(b) of that Act provided as follows:

"(b) APPLICABILITY TO EXPORTS APPROVED FOR TRANSFER BUT NOT EXPORTED.—Subsection b. of section 129 of Atomic Energy Act of 1954, as added by subsection (a) of this section, shall apply with respect to exports that have been approved for transfer as of the date of the enactment of this Act but have not yet been transferred as of that date.".

(D) such a waiver is essential to prevent or respond to a serious radiological hazard in the country receiving the waiver that may or does threaten public health and safety.

**Sec. 130.**[139] **Congressional Review Procedures.—**

a. Not later than forty-five days of continuous session of Congress after the date of transmittal to the Congress of any submission of the President required by subsection 126 a. (2), 126 b. (2), 128 b., 129, 131 a. (3), or 131 f. (1)(A) of this Act, the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs[133] of the House of Representatives,[140] shall each submit a report to its respective House on its views and recommendations respecting such Presidential submission together with a resolution, as defined in subsection f., stating in substance that the Congress approves or disapproves such submission, as the case may be: *Provided,* That if any such committee has not reported such a resolution at the end of such forty-five day period, such committee shall be deemed to be discharged from further consideration of such submission.[141] If no such resolution has been reported at the end of such period, the first resolution, as defined in subsection f., which is introduced within five days thereafter within such House shall be placed on the appropriate calendar of such House.

b. When the relevant committee or committees have reported such a resolution (or have been discharged from further consideration of such a resolution pursuant to subsection a.) or when a resolution has been introduced and placed on the appropriate calendar pursuant to subsection a., as the case may be, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

c. Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to a motion to postpone, or a motion to recommit the resolution, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order. No amendment to any concur-

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[139] 42 U.S.C. 2159. Sec. 308 of the Nuclear Non-Proliferation Act of 1978 (Public Law 95–242; 92 Stat. 139) added sec. 130.

[140] At this point, sec. 301(c)(1) of Public Law 99–64 (99 Stat. 160) struck out the following words: ", and in addition, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c., the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate,".

[141] At this point, sec. 301(c)(1) of Public Law 99–64 (99 Stat. 160) struck out the following words: "and if, in the case of a proposed agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c. of this Act, the other relevant committee of that House has reported such a resolution, such committee shall be deemed discharged from further consideration of that resolution".

rent resolution pursuant to the procedures of this section is in order except as provided in subsection d.

d. Immediately following (1) the conclusion of the debate on such concurrent resolution, (2) a single quorum call at the conclusion of debate if requested in accordance with the rules of the appropriate House, and (3) the consideration of an amendment introduced by the Majority Leader or his designee to insert the phrase, "does not" in lieu of the word "does" if the resolution under consideration is a concurrent resolution of approval, the vote on final approval of the resolution shall occur.

e. Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to such a resolution shall be decided without debate.

f. For the purposes of subsections a. through e. of this section, the term "resolution" means a concurrent resolution of the Congress, the matter after the resolving clause of which is as follows: "That the Congress (does or does not) favor the ..... transmitted to the Congress by the President on ....., .....", the blank spaces therein to be appropriately filled, and the affirmative or negative phrase within the parentheses to be appropriately selected.

g. (1) Except as provided in paragraph (2), for[142] the purposes of this section—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the

computation of any period of time in which Congress is in continuous session.

(2)[143] For purposes of this section insofar as it applies to section 123—

(A) continuity of session is broken only by an adjournment of Congress sine die at the end of a Congress; and

(B) the days on which either House is not in session because of an adjournment of more than three days are excluded in the computation of any period of time in which Congress is in continuous session.

h. This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection f. of this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

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[142] Sec. 301(c)(1) of Public Law 99–64 (99 Stat. 160) struck out "For" and inserted in lieu thereof "g. (1) Except as provided in paragraph (2), for".

[143] Sec. 301(c)(2)(A) of Public Law 99–64 (99 Stat. 160) added para. (2).

i.[144] (1) For the purposes of this subsection, the term "joint resolution" means—

(A) for an agreement for cooperation pursuant to section 123 of this Act, a joint resolution, the matter after the resolving clause of which is as follows: 'That the Congress (does or does not) favor the proposed agreement for cooperation transmitted to the Congress by the President on .',

(B) for a determination under section 129 of this Act, a joint resolution, the matter after the resolving clause of which is as follows: 'That the Congress does not favor the determination transmitted to the Congress by the President on .', or

(C) for a subsequent arrangement under section 201 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, a joint resolution, the matter after the resolving clause of which is as follows: 'That the Congress does not favor the subsequent arrangement to the Agreement for Cooperation Between the Government of the United States of America and the Government of India Concerning Peaceful Uses of Nuclear Energy that was transmitted to Congress by the President on September 10, 2008.',

with the date[145] of the transmission of the proposed agreement for cooperation inserted in the blank, and the affirmative or negative phrase within the parentheses appropriately selected.

(2) On the day on which a proposed agreement for cooperation is submitted to the House of Representatives and the Senate under section 123 d., a joint resolution with respect to such agreement for cooperation shall be introduced (by request) in the House by the chairman of the Committee on Foreign Affairs,[146] for himself and the ranking minority member of the Committee, or by Members of the House designated by the chairman and ranking minority member; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such an agreement for cooperation is submitted, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

(3) All joint resolutions introduced in the House of Representatives shall be referred to the appropriate committee or committees, and all joint resolutions introduced in the Senate shall be referred to the Committee on Foreign Relations and in addition, in the case of a proposed agreement for cooperation arranged pursuant to section 91 c., 144 b., or 144 c., the Committee on Armed Services.

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[144] Sec. 301(c)(2)(B) of Public Law 99–64 (99 Stat. 161) added subsec. (i).

[145] Sec. 205(1) of Public Law 110–369 (United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act; 122 Stat. 4033) struck out "means a joint resolution, the matter after the resolving clause of which is as follows: 'That the Congress (does or does not) favor the proposed agreement for cooperation transmitted to the Congress by the President on .', with the date" and inserted in lieu thereof "means—", followed by new subparas. (A), (B), and (C), and ending with "with the date".

[146] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

(4) If the committee of either House to which a joint resolution has been referred has not reported it at the end of 45 days after its introduction (or in the case of a joint resolution related to a subsequent arrangement under section 201 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, 15 days after its introduction),[147] the committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter, except that, in the case of a joint resolution which has been referred to more than one committee, if before the end of that 45-day period (or in the case of a joint resolution related to a subsequent arrangement under section 201 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, 15-day period)[147] one such committee has reported the joint resolution, any other committee to which the joint resolution was referred shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

(5) A joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and passage of joint resolutions reported or discharged pursuant to the provisions of this subsection, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing procedures for the immediate consideration of a joint resolution under this subsection which may be similar, if applicable, to the procedures set forth in section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976.

(6) In the case of a joint resolution described in paragraph (1), if prior to the passage by one House of a joint resolution in that House, that House received a joint resolution with respect to the same matter from the other House, then—

(A) the procedures in that House shall be the same as if no joint resolution had been received from the other House; but

(B) the vote on final passage shall be on the joint resolution of the other House.

**Sec. 131.**[148] **Subsequent Arrangements.—**

a. (1) Prior to entering into any proposed subsequent arrangement under an agreement for cooperation (other than an agreement for cooperation arranged pursuant to subsection 91 c., 144 b., or 144 c. of this Act), the Secretary of Energy shall obtain the con-

[147] Sec. 205(2)(A) of Public Law 110–369 (United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act; 122 Stat. 4034) inserted "(or in the case of a joint resolution related to a subsequent arrangement under section 201 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, 15 days after its introduction)" after "45 days after its introduction". Sec. 205(2)(B) of that Act inserted "(or in the case of a joint resolution related to a subsequent arrangement under section 201 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, 15-day period)" after "45-day period".

[148] 42 U.S.C. 2160. Sec. 303(a) of the Nuclear Non-Proliferation Act of 1978 (92 Stat. 127) added sec. 131.

Sec. 201 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act (Public Law 110–369; 122 Stat. 4032) provides procedures for a subsequent U.S.-India agreement on reprocessing nuclear materials "[n]otwithstanding section 131 of the Atomic Energy Act of 1954". See p. xx, this volume.

currence of the Secretary of State and shall consult with[149] the Commission, and the Secretary of Defense: *Provided,* That the Secretary of State shall have the leading role in any negotiations of a policy nature pertaining to any proposed subsequent arrangement regarding arrangements for the storage or disposition of irradiated fuel elements or approvals for the transfer, for which prior approval is required under an agreement for cooperation, by a recipient of source or special nuclear material, production or utilization facilities, or nuclear technology. Notice of any proposed subsequent arrangement shall be published in the Federal Register, together with the written determination of the Secretary of Energy that such arrangement will not be inimical to the common defense and security, and such proposed subsequent arrangement shall not take effect before fifteen days after publication. Whenever the Secretary of State is required[150] to prepare a Nuclear Proliferation Assessment Statement pursuant to paragraph (2) of this subsection, notice of the proposed subsequent arrangement which is the subject of the requirement to prepare a Nuclear Proliferation Assessment Statement[151] shall not be published until after the receipt by the Secretary of Energy of such Statement or the expiration of the time authorized by subsection c. for the preparation of such Statement, whichever occurs first.[152]

(2) If in the view of the Secretary of State, Secretary of Energy, Secretary of Defense, or the Commission[153] a proposed subsequent arrangement might significantly contribute to proliferation, the Secretary of State, in consultation with such Secretary or the Commission, shall prepare[154] an unclassified Nuclear Proliferation Assessment Statement[152] with regard to such proposed subsequent arrangement regarding the adequacy of the safeguards and other control mechanisms and the application of the peaceful use assurances of the relevant agreement to ensure that assistance to be furnished pursuant to the subsequent arrangement will not be used to further any military or nuclear explosive purpose. For the purposes of this section, the term "subsequent arrangements" means arrangements entered into by any agency or department of the United States Government with respect to cooperation with any na-

[149] Sec. 1225(d)(6)(A)(i) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–774) struck out "the Director,".

[150] Sec. 1225(d)(6)(A)(ii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–774) struck out "the Director declares that he intends" and inserted in lieu thereof "the Secretary of State is required".

[151] Sec. 1225(d)(6)(A)(iii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–774) struck out "the Director's declaration" and inserted in lieu thereof "the requirement to prepare a Nuclear Proliferation Assessment Statement".

[152] Sec. 406 of the Nuclear Non-Proliferation Act of 1978 (92 Stat. 148) provided that "No court or regulatory body shall have any jurisdiction under any law to compel the performance of or to review the adequacy of the performance of any Nuclear Proliferation Assessment Statement called for in this Act or in the 1954 Act.".

[153] Sec. 1225(d)(6)(B)(i) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–774) struck out "Director's view" and inserted in lieu thereof "view of the Secretary of State, Secretary of Energy, Secretary of Defense, or the Commission".

[154] Sec. 1225(d)(6)(B)(ii) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–774) struck out "he shall prepare" and inserted in lieu thereof "the Secretary of State, in consultation with such Secretary or the Commission, shall prepare".

tion or group of nations (but not purely private or domestic arrangements) involving—

(A) contracts for the furnishing of nuclear materials and equipment;

(B) approvals for the transfer, for which prior approval is required under an agreement for cooperation, by a recipient of any source or special nuclear material, production or utilization facility, or nuclear technology;

(C) authorization for the distribution of nuclear materials and equipment pursuant to this Act which is not subject to the procedures set forth in section 111 b., section 126, or section 109 b.;

(D) arrangements for physical security;

(E) arrangements for the storage or disposition of irradiated fuel elements;

(F) arrangements for the application of safeguards with respect to nuclear materials and equipment; or

(G) any other arrangement which the President finds to be important from the standpoint of preventing proliferation.

(3) The United States will give timely consideration to all requests for prior approval, when required by this Act, for the reprocessing of material proposed to be exported, previously exported and subject to the applicable agreement for cooperation, or special nuclear material produced through the use of such material or a production or utilization facility transferred pursuant to such agreement for cooperation, or to the altering of irradiated fuel elements containing such material, and additionally, to the maximum extent feasible, will attempt to expedite such consideration when the terms and conditions for such actions are set forth in such agreement for cooperation or in some other international agreement executed by the United States and subject to congressional review procedures comparable to those set forth in section 123 of this Act.

(4) All other statutory requirements under other sections of this Act for the approval or conduct of any arrangement subject to this subsection shall continue to apply and any other such requirements for prior approval or conditions for entering such arrangements shall also be satisfied before the arrangement takes effect pursuant to subsection a. (1).

b. With regard to any special nuclear material exported by the United States or produced through the use of any nuclear materials and equipment or sensitive nuclear technology exported by the United States—

(1) the Secretary of Energy may not enter into any subsequent arrangement for the retransfer of any such material to a third country for reprocessing, for the reprocessing of any such material, or for the subsequent retransfer of any plutonium in quantities greater than 500 grams resulting from the reprocessing of any such material, until he has provided the Committee on Foreign Affairs[155] of the House of Representa-

[155] Sec. 15(f)(6)(A) of Public Law 103–437 (108 Stat. 4592) struck out "International Relations" and inserted in lieu thereof "Foreign Affairs". Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) subsequently provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

tives and the Committee on Foreign Relations of the Senate with a report containing his reasons for entering into such arrangement and a period of 15 days of continuous session (as defined in subsection 130 g. of this Act) has elapsed: *Provided, however,* That if in the view of the President an emergency exists due to unforeseen circumstances requiring immediate entry into a subsequent arrangement, such period shall consist of fifteen calendar days;

(2) the Secretary of Energy may not enter into any subsequent arrangement for the reprocessing of any such material in a facility which has not processed power reactor fuel assemblies or been the subject of a subsequent arrangement therefor prior to the date of enactment of the Nuclear Non-Proliferation Act of 1978 or for subsequent retransfer to a non-nuclear-weapon state of any plutonium in quantities greater than 500 grams resulting from such reprocessing, unless in his judgment, and that of the Secretary of State, such reprocessing or retransfer will not result in a significant increase of the risk of proliferation beyond that which exists at the time that approval is requested. Among all the factors in making this judgment, foremost consideration will be given to whether or not the reprocessing or retransfer will take place under conditions that will ensure timely warning to the United States of any diversion well in advance of the time at which the non-nuclear-weapon state could transform the diverted material into a nuclear explosive device; and

(3) the Secretary of Energy shall attempt to ensure, in entering into any subsequent arrangement for the reprocessing of any such material in any facility that has processed power reactor fuel assemblies or been the subject of a subsequent arrangement therefor prior to the date of enactment of the Nuclear Non-Proliferation Act of 1978, or for the subsequent retransfer to any non-nuclear-weapon state of any plutonium in quantities greater than 500 grams resulting from such reprocessing, that such reprocessing or retransfer shall take place under conditions comparable to those which in this view, and that of the Secretary of State, satisfy the standards set forth in the paragraph (2).

c. The Secretary of Energy shall, within ninety days after the enactment of this section, establish orderly and expeditious procedures, including provision for necessary administrative actions and inter-agency memoranda of understanding, which are mutually agreeable to the Secretaries of State, Defense, and Commerce[156] and the Nuclear Regulatory Commission for the consideration of requests for subsequent arrangements under this section.[157] Such procedures shall include, at a minimum, explicit direction on the handling of such requests, express deadlines for the solicitation and collection of the views of the consulted agencies (with identified officials responsible for meeting such deadlines), an inter-agency coordinating authority to monitor the processing of such requests,

[156] Sec. 1225(d)(7)(A) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–775) struck out ", the Director of the Arms Control and Disarmament Agency,".

[157] See text of procedures in *Legislation on Foreign Relations Through 2005*, vol. V, sec. L.

predetermined procedures for the expeditious handling of intra-agency and inter-agency disagreements and appeals to higher authorities, frequent meetings of inter-agency administrative coordinators to review the status of all pending requests, and similar administrative mechanisms. To the extent practicable, an applicant should be advised of all the information required of the applicant for the entire process for every agency's needs at the beginning of the process. Potentially controversial requests should be identified as quickly as possible so that any required policy decisions or diplomatic consultations can be initiated in a timely manner. An immediate effort should be undertaken to establish quickly any necessary standards and criteria, including the nature of any required assurance or evidentiary showings, for the decisions required under this section. Further, such procedures shall specify that if he intends to prepare a Nuclear Proliferation Assessment Statement, the Secretary of State [158] shall so declare in his response to the Department of Energy. If the Secretary of State [158] declares that he intends to prepare such a Statement, he shall do so within sixty days of his receipt of a copy of the proposed subsequent arrangement (during which time the Secretary of Energy may not enter into the subsequent arrangement), unless pursuant to the Secretary of State's [158] request, the President waives the sixty-day requirement and notifies the Committee on Foreign Affairs [155] of the House of Representatives and the Committee on Foreign Relations of the Senate of such waiver and the justification therefor. The processing of any subsequent arrangement proposed and filed as of the date of enactment of this section shall not be delayed pending the development and establishment of procedures to implement the requirements of this section.

d. Nothing in this section is intended to prohibit, permanently or unconditionally, the reprocessing of spent fuel owned by a foreign nation which fuel has been supplied by the United States, to preclude the United States from full participation in the International Nuclear Fuel Cycle Evaluation provided for in section 105 of the Nuclear Non-Proliferation Act of 1978; to in any way limit the presentation or consideration in that evaluation of any nuclear fuel cycle by the United States or any other participation; nor the prejudice open and objective consideration of the results of the evaluation.

e. Notwithstanding subsection 402(d) of the Department of Energy Organization Act (Public Law 95–91), the Secretary of Energy, and not the Federal Energy Regulatory Commission, shall have sole jurisdiction within the Department of Energy over any matter arising from any function of the Secretary of Energy in this section.

f. (1) With regard to any subsequent arrangement under subsection a. (2)(E) (for the storage or disposition of irradiated fuel elements), where such arrangement involves a direct or indirect commitment of the United States for the storage or other disposition, interim or permanent, of any foreign spent nuclear fuel in the

[158] Sec. 1225(d)(7)(B) of the Foreign Affairs Agencies Consolidation Act of 1998 (subdivision A of division G of Public Law 105–277; 112 Stat. 2681–774) struck out "Director" in the sixth and seventh sentence of this subsection, and inserted in lieu thereof "Secretary of State". Sec. 1225(d)(7)(C) of that Act struck out "Director's" and inserted in lieu thereof "Secretary of State's" in the seventh sentence.

United States, the Secretary of Energy may not enter into any such subsequent arrangement, unless:

(A)(i) Such commitment of the United States has been submitted to the Congress for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act) and has been referred to the Committee on Foreign Affairs[155] of the House of Representatives and the Committee on Foreign Relations of the Senate, but any such commitment shall not become effective if during such sixty-day period the Congress adopts a concurrent resolution stating in substance that it does not favor the commitment, any such commitment to be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions; or (ii) if the President has submitted a detailed generic plan for such disposition or storage in the United States to the Congress for a period of sixty days of continuous session (as defined in subsection 130 g. of this Act), which plan has been referred to the Committee on Foreign Affairs[155] of the House of Representatives and the Committee on Foreign Relations of the Senate and has not been disapproved during such sixty-day period by the adoption of a concurrent resolution stating in substance that Congress does not favor the plan; and the commitment is subject to the terms of an effective plan. Any such plan shall be considered pursuant to the procedures set forth in section 130 of this Act for the consideration of Presidential submissions;

(B) The Secretary of Energy has complied with subsection a.; and

(C) The Secretary of Energy has complied, or in the arrangement will comply with all other statutory requirements of this Act, under sections 54 and 55 and any other applicable sections, and any other requirements of law.

(2) Subsection (1) shall not apply to the storage or other disposition in the United States of limited quantities of foreign spent nuclear fuel if the President determines that (A) a commitment under section 54 or 55 of this Act of the United States for storage or other disposition of such limited quantities in the United States is required by an emergency situation, (B) it is in the national interest to take such immediate action, and (C) he notifies the Committees on Foreign Affairs[155] and Science, Space, and Technology[159] of the House of Representatives and the Committees on Foreign Relations and Energy and Natural Resources of the Senate of the determination and action, with a detailed explanation and justification thereof, as soon as possible.

(3) Any plan submitted by the President under subsection f. (1) shall include a detailed discussion, with detailed information, and any supporting documentation thereof, relating to policy objectives, technical description, geographic information, cost data and justifications, legal and regulatory considerations, environmental im-

[159] Sec. 15(f)(6)(B) of Public Law 103–437 (108 Stat. 4593) struck out "Science and Technology" and inserted in lieu thereof "Science, Space, and Technology". Sec. 1(a)(10) of Public Law 104–14 (109 Stat. 187) subsequently provided that references to the Committee on Science, Space, and Technology of the House of Representatives shall be treated as referring to the Committee on Science of the House of Representatives.

pact information and any related international agreements, arrangements or understandings.

(4) For the purposes of this subsection, the term "foreign spent nuclear fuel" shall include any nuclear fuel irradiated in any nuclear power reactor located outside of the United States and operated by any foreign legal entity, government or nongovernment, regardless of the legal ownership or other control of the fuel or the reactor and regardless of the origin or licensing of the fuel or reactor, but not including fuel irradiated in a research reactor.

**Sec. 132.[160] Authority to Suspend Nuclear Cooperation with Nations Which Have Not Ratified the Convention on the Physical Security of Nuclear Material.—**

The President may suspend nuclear cooperation under this Act with any nation or group of nations which has not ratified the Convention on the Physical Security of Nuclear Material.

**Sec. 133.[161] Consultation with the Department of Defense Concerning Certain Exports and Subsequent Arrangements.—**

a. In addition to other applicable requirements—

(1) a license may be issued by the Nuclear Regulatory Commission under this Act for the export of special nuclear material described in subsection b.; and

(2) approval may be granted by the Secretary of Energy under section 131 of this Act for the transfer of special nuclear material described in subsection b.;

only after the Secretary of Defense has been consulted on whether the physical protection of that material during the export or transfer will be adequate to deter theft, sabotage, and other acts of international terrorism which would result in the diversion of that material. If, in the view of the Secretary of Defense based on all available intelligence information, the export or transfer might be subject to a genuine terrorist threat, the Secretary shall provide to the Nuclear Regulatory Commission or the Secretary of Energy, as appropriate, his written assessment of the risk and a description of the actions the Secretary of Defense considers necessary to upgrade physical protection measures.

b. Subsection a. applies to the export or transfer of more than 2 kilograms of plutonium or more than 5 kilograms[162] of uranium enriched to more than 20 percent in the isotope 233 or the isotope 235.

**Sec. 134.[163] Further Restrictions on Exports.—**

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[160] 42 U.S.C. 2160b. Sec. 602 of Public Law 99–399 (100 Stat. 875) added sec. 132.

[161] 42 U.S.C. 2160c. Sec. 603 of Public Law 99–399 (100 Stat. 875) added sec. 133.

[162] Sec. 829 of Public Law 103–236 (108 Stat. 521) struck out "20 kilograms" and inserted in lieu thereof "5 kilograms".

[163] 42 U.S.C. 2160d. Sec. 903(a)(1) of the Energy Policy Act of 1992 (Public Law 102–486; 106 Stat. 2944) added sec. 134.

Sec. 903(b) of that Act further provided the following:

"(b) REPORT TO CONGRESS.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Chairman of the Nuclear Regulatory Commission, after consulting with other relevant agencies, shall submit to the Congress a report detailing the current disposition of previous United States exports of highly enriched uranium, including—

"(A) their location;

"(B) whether they are irradiated;

"(C) whether they have been used for the purpose stated in their export license; and

"(D) whether they have been used for an alternative purpose and, if so, whether such alternative purpose has been explicitly approved by the Commission.

a. IN GENERAL.—Except as provided in subsection b., the Commission[164] may issue a license for the export of highly enriched uranium to be used as a fuel or target in a nuclear research or test reactor only if, in addition to any other requirement of this Act, the Commission determines that—

(1) there is no alternative nuclear reactor fuel or target enriched in the isotope 235 to a lesser percent than the proposed export, that can be used in that reactor;

(2) the proposed recipient of that uranium has provided assurances that, whenever an alternative nuclear reactor fuel or target can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and

(3) the United States Government is actively developing an alternative nuclear reactor fuel or target that can be used in that reactor.

b.[165] MEDICAL ISOTOPE PRODUCTION.—

(1) DEFINITIONS.—In this subsection:

(A) HIGHLY ENRICHED URANIUM.—The term "highly enriched uranium" means uranium enriched to include concentration of U–235 above 20 percent.

(B) MEDICAL ISOTOPE.—The term "medical isotope" includes Molybdenum 99, Iodine 131, Xenon 133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic, therapeutic procedures or for research and development.

(C) RADIOPHARMACEUTICAL.—The term "radiopharmaceutical" means a radioactive isotope that—

(i) contains byproduct material combined with chemical or biological material; and

(ii) is designed to accumulate temporarily in a part of the body for therapeutic purposes or for enabling the production of a useful image for use in a diagnosis of a medical condition.

(D) RECIPIENT COUNTRY.—The term "recipient country" means Canada, Belgium, France, Germany, and the Netherlands.

(2) Licenses.—The Commission may issue a license authorizing the export (including shipment to and use at intermediate and ultimate consignees specified in the license) to a recipient country of highly enriched uranium for medical isotope production if, in addition to any other requirements of this Act (except subsection a.), the Commission determines that—

(A) a recipient country that supplies an assurance letter to the United States Government in connection with the consideration by the Commission of the export license application has informed the United States Government that

"(2) EXPORTS TO EURATOM.—To the maximum extent possible, the report required by paragraph (1) shall include—

"(A) exports of highly enriched uranium to EURATOM; and

"(B) subsequent retransfers of such material within EURATOM, without regard to the extent of United States control over such retransfers.".

[164] Sec. 630(1) of the Energy Policy Act of 2005 (subtitle B of title VI of Public Law 109–58; 119 Stat. 785) struck out "a. The Commission" and inserted in lieu thereof "a. IN GENERAL.—Except as provided in subsection b., the Commission".

[165] Sec. 630(2) of the Energy Policy Act of 2005 (subtitle B of title VI of Public Law 109–58; 119 Stat. 785) redesignated subsec. b. as subsec. c., and added a new subsec. b.

any intermediate consignees and the ultimate consignee specified in the application are required to use the highly enriched uranium solely to produce medical isotopes; and

(B) the highly enriched uranium for medical isotope production will be irradiated only in a reactor in a recipient country that—

(i) uses an alternative nuclear reactor fuel; or

(ii) is the subject of an agreement with the United States Government to convert to an alternative nuclear reactor fuel when alternative nuclear reactor fuel can be used in the reactor.

(3) REVIEW OF PHYSICAL PROTECTION REQUIREMENTS.—

(A) IN GENERAL.—The Commission shall review the adequacy of physical protection requirements that, as of the date of an application under paragraph (2), are applicable to the transportation and storage of highly enriched uranium for medical isotope production or control of residual material after irradiation and extraction of medical isotopes.

(B) IMPOSITION OF ADDITIONAL REQUIREMENTS.—If the Commission determines that additional physical protection requirements are necessary (including a limit on the quantity of highly enriched uranium that may be contained in a single shipment), the Commission shall impose such requirements as license conditions or through other appropriate means.

(4) FIRST REPORT TO CONGRESS.—

(A) NAS STUDY.—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct a study to determine—

(i) the feasibility of procuring supplies of medical isotopes from commercial sources that do not use highly enriched uranium;

(ii) the current and projected demand and availability of medical isotopes in regular current domestic use;

(iii) the progress that is being made by the Department of Energy and others to eliminate all use of highly enriched uranium in reactor fuel, reactor targets, and medical isotope production facilities; and

(iv) the potential cost differential in medical isotope production in the reactors and target processing facilities if the products were derived from production systems that do not involve fuels and targets with highly enriched uranium.

(B) FEASIBILITY.—For the purpose of this subsection, the use of low enriched uranium to produce medical isotopes shall be determined to be feasible if—

(i) low enriched uranium targets have been developed and demonstrated for use in the reactors and target processing facilities that produce significant quantities of medical isotopes to serve United States needs for such isotopes;

(ii) sufficient quantities of medical isotopes are available from low enriched uranium targets and fuel to meet United States domestic needs; and

(iii) the average anticipated total cost increase from production of medical isotopes in such facilities without use of highly enriched uranium is less than 10 percent.

(C) REPORT BY THE SECRETARY.—Not later than 5 years after the date of enactment of the Energy Policy Act of 2005, the Secretary shall submit to Congress a report that—

(i) contains the findings of the National Academy of Sciences made in the study under subparagraph (A); and

(ii) discloses the existence of any commitments from commercial producers to provide domestic requirements for medical isotopes without use of highly enriched uranium consistent with the feasibility criteria described in subparagraph (B) not later than the date that is 4 years after the date of submission of the report.

(5) SECOND REPORT TO CONGRESS.—If the study of the National Academy of Sciences determines under paragraph (4)(A)(i) that the procurement of supplies of medical isotopes from commercial sources that do not use highly enriched uranium is feasible, but the Secretary is unable to report the existence of commitments under paragraph (4)(C)(ii), not later than the date that is 6 years after the date of enactment of the Energy Policy Act of 2005, the Secretary shall submit to Congress a report that describes options for developing domestic supplies of medical isotopes in quantities that are adequate to meet domestic demand without the use of highly enriched uranium consistent with the cost increase described in paragraph (4)(B)(iii).

(6) CERTIFICATION.—At such time as commercial facilities that do not use highly enriched uranium are capable of meeting domestic requirements for medical isotopes, within the cost increase described in paragraph (4)(B)(iii) and without impairing the reliable supply of medical isotopes for domestic utilization, the Secretary shall submit to Congress a certification to that effect.

(7) SUNSET PROVISION.—After the Secretary submits a certification under paragraph (6), the Commission shall, by rule, terminate its review of export license applications under this subsection.

c.[165] As used in this section—

(1) the term "alternative nuclear reactor fuel or target" means a nuclear reactor fuel or target which is enriched to less than 20 percent in the isotope U–235;

(2) the term "highly enriched uranium" means uranium enriched to 20 percent or more in the isotope U–235; and

(3) a fuel or target "can be used" in a nuclear research or test reactor if—

(A) the fuel or target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy, and

(B) use of the fuel or target will permit the large majority of ongoing and planned experiments and isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor.

## CHAPTER 12. CONTROL OF INFORMATION

**Sec. 141.**[166] **Policy.**—It shall be the policy of the Commission to control the dissemination and declassification of Restricted Data in such a manner as to assure the common defense and security. Consistent with such policy, the Commission shall be guided by the following principles:

a. Until effective and enforceable international safeguards against the use of atomic energy for destructive purposes have been established by an international arrangement, there shall be no exchange of Restricted Data with other nations except as authorized by section 144; and

b. The dissemination of scientific and technical information relating to atomic energy should be permitted and encouraged so as to provide that free interchange of ideas and criticism which is essential to scientific and industrial progress and public understanding and to enlarge the fund of technical information.

**Sec. 142.**[167] **Classification and Declassification of Restricted Data.**—

a. The Commission shall from time to time determine the data, within the definition of Restricted Data, which can be published without undue risk to the common defense and security and shall thereupon cause such data to be declassified and removed from the category of Restricted Data.

b. The Commission shall maintain a continuous review of Restricted Data and of any Classification Guides issued for the guidance of those in the atomic energy program with respect to the areas of Restricted Data which have been declassified in order to determine which information may be declassified and removed from the category of Restricted Data without undue risk to the common defense and security.

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[166] 42 U.S.C. 2161.

[167] 42 U.S.C. 2162. Sec. 3152 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2644) originally added a subsec. f. to this section. Sec. 3155(c)(3) of Public Law 103–337 (108 Stat. 3092) subsequently repealed subsec. f., which formerly read as follows:

"f. Notwithstanding any other law, the President may publicly release Restricted Data regarding the nuclear weapons stockpile of the United States if the United States and member states of the Commonwealth of Independent States reach reciprocal agreement on the release of such data.".

Sec. 3155 of Public Law 104–106 (110 Stat. 625; 42 U.S.C. 2162 note) provided the following:

**"SEC. 3155. REVIEW OF CERTAIN DOCUMENTS BEFORE DECLASSIFICATION AND RELEASE.**

"(a) IN GENERAL.—The Secretary of Energy shall ensure that, before a document of the Department of Energy that contains national security information is released or declassified, such document is reviewed to determine whether it contains restricted data.

"(b) LIMITATION ON DECLASSIFICATION.—The Secretary may not implement the automatic declassification provisions of Executive Order 12958 if the Secretary determines that such implementation could result in the automatic declassification and release of documents containing restricted data.

"(c) RESTRICTED DATA DEFINED.—In this section, the term 'restricted data' has the meaning provided by section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).".

c. In the case of Restricted Data which the Commission and the Department of Defense jointly determine to relate primarily to the military utilization of atomic weapons, the determination that such data may be published without constituting an unreasonable risk to the common defense and security shall be made by the Commission and the Department of Defense jointly, and if the Commission and the Department of Defense do not agree, the determination shall be made by the President.

d. The Commission shall remove from the Restricted Data category such data as the Commission and the Department of Defense jointly determine relates primarily to the military utilization of atomic weapons and which the Commission and Department of Defense jointly determine can be adequately safeguarded as defense information: *Provided, however,* That no such data so removed from the Restricted Data category shall be transmitted or otherwise made available to any nation or regional defense organization, while such data remains defense information, except pursuant to an agreement for cooperation entered into in accordance with subsection b. or d. of section 144.[168]

e. The Commission shall remove from the Restricted Data category such information concerning the atomic energy programs of other nations as the Commission and the Director of Central Intelligence jointly determine to be necessary to carry out the provisions of section 102(d) of the National Security Act of 1947, as amended, and can be adequately safeguarded as defense information.

**Sec. 143.[169] Department of Defense Participation.**—The Commission may authorize any of its employees, or employees of any contractor, prospective contractor, licensee or prospective licensee of the Commission or any other person authorized access to Restricted Data by the Commission under subsections 145 b. and 145 c.[170] to permit any employee of an agency of the Department of Defense or of its contractors, or any member of the Armed Forces to have access to Restricted Data required in the performance of his duties and so certified by the head of the appropriate agency of the Department of Defense or his designee: *Provided, however,* That the head of the appropriate agency of the Department of Defense or his designee has determined, in accordance with the established personnel security procedures and standards of such agency, that permitting the member or employee to have access to such Restricted Data will not endanger the common defense and security: *And provided further,* That the Secretary of Defense finds that the established personnel and other security procedures and standards of such agency are adequate and in reasonable conformity to the standards established by the Commission under section 145.

**Sec. 144.[171] International Cooperation.**—

[168] Sec. 3155(c)(2) of Public Law 103–337 (108 Stat. 3092) struck out "subsection 144 b." and inserted in lieu thereof "subsection b. or d. of section 144.".

[169] 42 U.S.C. 2163.

[170] Sec. 14 of Public Law 84–1006 (70 Stat. 1069) added the words "or any other person authorized access to Restricted Data by the Commission under subsection 145 b.". Sec. 5 of Public Law 87–206 (75 Stat. 475) deleted the words "subsection 145 b.," and substituted in lieu thereof "subsections 145 b. and 145 c.".

[171] 42 U.S.C. 2164. Sec. 3154(a) of Public Law 104–106 (110 Stat. 624; 42 U.S.C. 2164 note) provided the following:

Continued

a. The President may authorize the Commission to cooperate with another nation and to communicate to that nation Restricted Data on—

(1) refining, purification, and subsequent treatment of source material;

(2) civilian [172] reactor development;

(3) production of special nuclear material;

(4) health and safety;

(5) industrial and other applications of atomic energy for peaceful purposes; and

(6) research and development relating to the foregoing:

*Provided, however,* That no such cooperation shall involve the communication of Restricted Data relating to the design or fabrication of atomic weapons: *And provided further,* That the cooperation is undertaken pursuant to an agreement for cooperation entered into in accordance with section 123, or is undertaken pursuant to an agreement existing on the effective date of this act.

b.[173] The President may authorize the Department of Defense, with the assistance of the Commission, to cooperate with another nation or with a regional defense organization to which the United States is a party, and to communicate to that nation or organization such Restricted Data (including design information) as is necessary to—

(1) the development of defense plans;

(2) the training of personnel in the employment of and defense against atomic weapons; and other military applications of atomic energy;

(3) the evaluation of the capabilities of potential enemies in the employment of atomic weapons and other military applications of atomic energy; and

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**"SEC. 3154. PROHIBITION ON INTERNATIONAL INSPECTIONS OF DEPARTMENT OF ENERGY FACILITIES UNLESS PROTECTION OF RESTRICTED DATA IS CERTIFIED.**

"(a) PROHIBITION ON INSPECTIONS.—(1) The Secretary of Energy may not allow an inspection of a nuclear weapons facility by the International Atomic Energy Agency until the Secretary certifies to Congress that no restricted data will be revealed during such inspection.

"(2) For purposes of paragraph (1), the term 'restricted data' has the meaning provided by section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).".

[172] Sec. 5 of Public Law 85–479 (72 Stat. 276) amended subsec. a of sec. 144 by inserting the word "civilian" before the words "reactor development" in clause (2).

[173] Sec. 6 of Public Law 85–479 (72 Stat. 276) amended sec. 144 by substituting a new subsec. b. Subsec. b. previously read as follows:

"b. The President may authorize the Department of Defense, with the assistance of the Commission, to cooperate with another nation or with a regional defense organization to which the United States is a party, and to communicate to that nation or organization such Restricted Data as is necessary to—

"(1) the development of defense plans;

"(2) the training of personnel in the employment of and defense against atomic weapons; and

"(3) the evaluation of the capabilities of potential enemies in the employment of atomic weapons,

"while such other nation or organization is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however,* That no such cooperation shall involve communication of Restricted Data relating to the design or fabrication of atomic weapons except with regard to external characteristics, including size, weight, and shape, yields and effects, and systems employed in the delivery or use thereof but not including any data in these categories unless in the joint judgment of the Commission and the Department of Defense such data will not reveal important information concerning the design or fabrication of the nuclear components of an atomic weapon: *And provided further,* That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 123.".

(4) the development of compatible delivery systems for atomic weapons;

whenever the President determines that the proposed cooperation and the proposed communication of the Restricted Data will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation or organization is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however,* That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 123.

c.[174] In addition to the cooperation authorized in subsections 144 a. and 144 b., the President may authorize the Commission, with the assistance of the Department of Defense, to cooperate with another nation and—

(1) to exchange with that nation Restricted Data concerning atomic weapons: *Provided,* That communication of such Restricted Data to that nation is necessary to improve its atomic weapon design, development, or fabrication capability and provided that nation has made substantial progress in the development of atomic weapons; and

(2) to communicate or exchange with that nation Restricted Data concerning research, development, or design, or military reactors,

whenever the President determines that the proposed cooperation and the communication of the proposed Restricted Data will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however,* That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 123.

d.[175] (1) In addition to the cooperation authorized in subsections a., b., and c., the President may, upon making a determination described in paragraph (2), authorize the Department of Energy, with the assistance of the Department of Defense, to cooperate with another nation to communicate to that nation such Restricted Data, and the President may, upon making such determination, authorize the Department of Defense, with the assistance of the Department of Energy, to cooperate with another nation to communicate to that nation such data removed from the Restricted Data category under section 142, as is necessary for—

(A) the support of a program for the control of and accounting for fissile material and other weapons material;

(B) the support of the control of and accounting for atomic weapons;

(C) the verification of a treaty; and

(D) the establishment of international standards for the classification of data on atomic weapons, data on fissile material, and related data.

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[174] Sec. 7 of Public Law 85–479 (72 Stat. 276) amended sec. 144 by adding subsecs. c. and d. (redesignated as subsec. e.).

[175] Sec. 3155(a)(2) of Public Law 103–337 (108 Stat. 3091) added subsec. d.

(2) A determination referred to in paragraph (1) is a determination that the proposed cooperation and proposed communication referred to in that paragraph—

(A) will promote the common defense and security interests of the United States and the nation concerned; and

(B) will not constitute an unreasonable risk to such common defense and security interests.

(3) Cooperation under this subsection shall be undertaken pursuant to an agreement for cooperation entered into in accordance with section 123.

e.[176] The President may authorize an agency of the United States to communicate in accordance with the terms and conditions of an agreement for cooperation arranged pursuant to subsection 144 a., b., c., or d.,[177] such Restricted Data as is determined to be transmissible under the agreement for cooperation involved.

**Sec. 145.[178] Restrictions.—**

a. No arrangement shall be made under section 31, no contract shall be made or continued in effect under section 41, and no license shall be issued under section 103 or 104, unless the person with whom such arrangement is made, the contractor or prospective contractor, or the prospective licensee agrees in writing not to permit any individual to have access to Restricted Data until the Civil Service Commission shall have made an investigation and report to the Commission on the character, associations, and loyalty of such individual, and the Commission shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.

b. Except as authorized by the Commission or the General Manager upon a determination by the Commission or General Manager that such action is clearly consistent with the national interest, no individual shall be employed by the Commission nor shall the Commission permit any individual to have access to Restricted Data until the Civil Service Commission shall have made an investigation and report to the Commission on the character, associations and loyalty of such individual, and the Commission shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.

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**Sec. 147.[179] Safeguards Information.—**

a. In addition to any other authority or requirement regarding protection from disclosure of information, and subject to subsection (b)(3) of section 552 of title 5 of the United States Code, the Commission shall prescribe such regulations, after notice and opportunity for public comment, or issue such orders, as necessary to prohibit the unauthorized disclosure of safeguards information which specifically identifies a licensee's or applicant's detailed—

(1) control and accounting procedures or security measures (including security plans, procedures or equipment) for the

[176] Sec. 7 of Public Law 85–479 (72 Stat. 276) added this subsection as subsec. d. Sec. 3155(a)(1) of Public Law 103–337 (108 Stat. 3091) redesignated this subsection as subsec. e.

[177] Sec. 3155(c)(4) of Public Law 103–337 (108 Stat. 3092) struck out "or c." and inserted in lieu thereof "c., or d.".

[178] 42 U.S.C. 2165.

[179] 42 U.S.C. 2167. Sec. 147 was added by sec. 207(a)(1) of Public Law 96–295 (94 Stat. 788).

physical protection of special nuclear material, by whomever possessed, whether in transit or at fixed sites, in quantities determined by the Commission to be significant to the public health and safety or the common defense and security;

(2) security measures (including security plans, procedures and equipment) for the physical protection of source material or byproduct material, by whomever possessed, whether in transit or at fixed sites, in quantities determined by the Commission to be significant to the public health and safety or the common defense and security; or

(3) security measures (including security plans, procedures, and equipment) for the physical protection of and the location of certain plant equipment vital to the safety of production or utilization facilities involving nuclear materials covered by paragraphs (1) and (2)

if the unauthorized disclosure of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of such material or such facility. The Commission shall exercise the authority of this subsection—

(A) so as to apply the minimum restrictions needed to protect the health and safety of the public or the common defense and security, and

(B) upon a determination that the unauthorized disclosure of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of such material or such facility.

Nothing in this Act shall authorize the Commission to prohibit the public disclosure of information pertaining to the routes and quantities of shipments of source material, by-product material, high level nuclear waste, or irradiated nuclear reactor fuel. Any person, whether or not a licensee of the Commission, who violates any regulation adopted under this section shall be subject to the civil monetary penalties of section 234 of this Act. Nothing in this section shall be construed to authorize the withholding of information from the duly authorized committees of the Congress.

b. For the purposes of section 223 of this Act, any regulations or orders prescribed or issued by the Commission under this section shall also be deemed to be prescribed or issued under section 161 b. of this Act.

c. Any determination by the Commission concerning the applicability of this section shall be subject to judicial review pursuant to subsection (a)(4)(B) of section 552 of title 5 of the United States Code.

d. Upon prescribing or issuing any regulation or order under subsection a. of this section, the Commission shall submit to Congress a report that:

(1) specifically identifies the type of information the Commission intends to protect from disclosure under the regulation or order;

(2) specifically states the Commission's justification for determining that unauthorized disclosure of the information to be protected from disclosure under the regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of such material or such facility, as specified under subsection (a) of this section; and

(3) provides justification, including proposed alternative regulations or orders, that the regulation or order applies only the minimum restrictions needed to protect the health and safety of the public or the common defense and security.

e. In addition to the reports required under subsection d. of this section, the Commission shall submit to Congress on a quarterly basis a report detailing the Commission's application during that period of every regulation or order prescribed or issued under this section. In particular, the report shall:

(1) identify any information protected from disclosure pursuant to such regulation or order;

(2) specifically state the Commission's justification for determining that unauthorized disclosure of the information protected from disclosure under such regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion or sabotage of such material, or such facility, as specified under subsection a. of this section; and

(3) provide justification that the Commission has applied such regulation or order so as to protect from disclosure only the minimum amount of information necessary to protect the health and safety of the public or the common defense and security.

**Sec. 148.**[180] **Prohibition Against the Dissemination of Certain Unclassified Information.—**

a. (1) In addition to any other authority or requirement regarding protection from dissemination of information, and subject to section 552(b)(3) of title 5, United States Code, the Secretary of Energy (hereinafter in this section referred to as the "Secretary"), with respect to atomic energy defense programs,[181] shall prescribe such regulations, after notice and opportunity for public comment thereon, or issue such orders as may be necessary to prohibit the unauthorized dissemination of unclassified information pertaining to—

(A) the design of production facilities or utilization facilities;

(B) security measures (including security plans, procedures, and equipment) for the physical protection of (i) production or utilization facilities, (ii) nuclear material contained in such facilities, or (iii) nuclear material in transit; or

(C) the design, manufacture, or utilization of any atomic weapon or component if the design, manufacture, or utilization of such weapon or component was contained in any information

[180] 42 U.S.C. 2168. Sec. 210(a)(1) of Public Law 97–90 (95 Stat. 1169) added sec. 148.

[181] Sec. 17(a) of Public Law 97–415 (96 Stat. 2076) added ", with respect to atomic energy defense programs,".

declassified or removed from the Restricted Data category by the Secretary (or the head of the predecessor agency of the Department of Energy) pursuant to section 142.

(2) The Secretary may prescribe regulations or issue orders under paragraph (1) to prohibit the dissemination of any information described in such paragraph only if and to the extent that the Secretary determines that the unauthorized dissemination of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of (A) illegal production of nuclear weapons, or (B) theft, diversion, or sabotage of nuclear materials, equipment, or facilities.

(3) In making a determination under paragraph (2), the Secretary may consider what the likelihood of an illegal production, theft, diversion, or sabotage referred to in such paragraph would be if the information proposed to be prohibited from dissemination under this section were at no time available for dissemination.

(4) The Secretary shall exercise his authority under this subsection to prohibit the dissemination of any information described in subsection a. (1)—

(A) so as to apply the minimum restrictions needed to protect the health and safety of the public or the common defense and security; and

(B) upon a determination that the unauthorized dissemination of such information could reasonably be expected to result in a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of (i) illegal production of nuclear weapons, or (ii) theft, diversion, or sabotage of nuclear materials, equipment, or facilities.

(5) Nothing in this section shall be construed to authorize the Secretary to authorize the withholding of information from the appropriate committees of the Congress.

b. (1) Any person who violates any regulation or order of the Secretary issued under this section with respect to the unauthorized dissemination of information shall be subject to a civil penalty, to be imposed by the Secretary, of not to exceed $100,000 for each such violation. The Secretary may compromise, mitigate, or remit any penalty imposed under this subsection.

(2) The provisions of subsections b. and c. of section 234 of this Act shall be applicable with respect to the imposition of civil penalties by the Secretary under this section in the same manner that such provisions are applicable to the imposition of civil penalties by the Commission under subsection a. of such section.

c. For the purposes of section 223 of this Act, any regulation prescribed or order issued by the Secretary under this section shall also be deemed to be prescribed or issued under section 161 b. of this Act.

d.[182] Any determination by the Secretary concerning the applicability of this section shall be subject to judicial review pursuant to section 552(a)(4)(B) of title 5, United States Code.

[182] Sec. 17(b) of Public Law 97–415 (96 Stat. 2076) added subsecs. d. and e.

e.[182] The Secretary shall prepare on a quarterly basis a report to be made available upon the request of any interested person, detailing the Secretary's application during that period of each regulation or order prescribed or issued under this section. In particular, such report shall—

(1) identify any information protected from disclosure pursuant to such regulation or order;

(2) specifically state the Secretary's justification for determining that unauthorized dissemination of the information protected from disclosure under such regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of illegal production of nuclear weapons, or theft, diversion, or sabotage of nuclear materials, equipment, or facilities, as specified under subsection a.; and

(3) provide justification that the Secretary has applied such regulation or order so as to protect from disclosure only the minimum amount of information necessary to protect the health and safety of the public or the common defense and security.

**Sec. 149.**[183] **Fingerprinting for Criminal History Record Checks.—**

a.(1)(A)(i)[184] The Commission shall require each individual or entity described in clause (ii) to fingerprint each individual described in subparagraph (B) before the individual described in subparagraph (B) is permitted access under subparagraph (B).

(ii) The individuals and entities referred to in clause (i) are individuals and entities that, on or before the date on which an individual is permitted access under subparagraph (B)—

(I) are licensed or certified to engage in an activity subject to regulation by the Commission;

(II) have filed an application for a license or certificate to engage in an activity subject to regulation by the Commission; or

(III) have notified the Commission in writing of an intent to file an application for licensing, certification, permitting, or approval of a product or activity subject to regulation by the Commission.

(B) The Commission shall require to be fingerprinted any individual who—

(i) is permitted unescorted access to—

(I) a utilization facility; or

(II) radioactive material or other property subject to regulation by the Commission that the Commission determines to be of such significance to the public health and safety or the common defense and security as to warrant fingerprinting and background checks; or

[183] 42 U.S.C. 2169. Sec. 606 of Public Law 99–399 (100 Stat. 876) added sec. 149.

[184] Sec. 652(1)(A) of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 810) amended and restated subsec. a., which formerly read as follows:

"a. The Nuclear Regulatory Commission (in this section referred to as the 'Commission') shall require each licensee or applicant for a license to operate a utilization facility under section 103 or 104 b. to fingerprint each individual who is permitted unescorted access to the facility or is permitted access to safeguards information under section 147.".

(ii) is permitted access to safeguards information under section 147.

(2)[185] All fingerprints obtained by an individual or entity as required in paragraph (1) shall be submitted to the Attorney General of the United States through the Commission for identification and a criminal history records check.

(3)[186] The costs of an identification or records check under paragraph (2) shall be paid by the individual or entity required to conduct the fingerprinting under paragraph (1)(A).

(4)[187] Notwithstanding any other provision of law—

(A) the Attorney General may provide any result of an identification or records check under paragraph (2) to the Commission; and

(B) the Commission, in accordance with regulations prescribed under this section, may provide the results to the individual or entity required to conduct the fingerprinting under paragraph (1)(A).

b. The Commission, by rule, may relieve persons from the obligations imposed by this section, upon specified terms, conditions, and periods, if the Commission finds that such action is consistent with its obligations to promote the common defense and security and to protect the health and safety of the public.

c. For purposes of administering this section, the Commission shall prescribe requirements—[188]

(1) to implement procedures for the taking of fingerprints;

(2) to establish the conditions for use of information received from the Attorney General, in order—

(A) to limit the redissemination of such information;

(B) to ensure that such information is used solely for the purpose of determining whether an individual shall be permitted unescorted access to a utilization facility, radioactive material, or other property described in subsection a.(1)(B)[189] or shall be permitted access to safeguards information under section 147;

(C) to ensure that no final determination may be made solely on the basis of information provided under this section involving—

(i) an arrest more than 1 year old for which there is no information of the disposition of the case; or

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[185] Sec. 652(1)(B) of Public Law 109–58 (119 Stat. 811) struck out "All fingerprints obtained by a licensee or applicant as required in the preceding sentence" and inserted in lieu thereof "(2) All fingerprints obtained by an individual or entity as required in paragraph (1)".

[186] Sec. 652(1)(C) of Public Law 109–58 (119 Stat. 811) struck out "The costs of any identification and records check conducted pursuant to the preceding sentence shall be paid by the licensee or applicant." and inserted in lieu thereof "(3) The costs of an identification or records check under paragraph (2) shall be paid by the individual or entity required to conduct the fingerprinting under paragraph (1)(A).".

[187] Sec. 652(1)(D) of Public Law 109–58 (119 Stat. 811) struck out "Notwithstanding any other provision of law, the Attorney General may provide all the results of the search to the Commission, and, in accordance with regulations prescribed under this section, the Commission may provide such results to licensee or applicant submitting such fingerprints." and inserted in lieu thereof the present para. (4).

[188] Sec. 652(2)(A) of Public Law 109–58 (119 Stat. 811) struck out ", subject to public notice and comment, regulations—" and inserted in lieu thereof "requirements—".

[189] Sec. 652(2)(B) of Public Law 109–58 (119 Stat. 811) struck out "unescorted access to the facility of a licensee or applicant" and inserted in lieu thereof "unescorted access to a utilization facility, radioactive material, or other property described in subsection a.(1)(B)".

(ii) an arrest that resulted in dismissal of the charge or an acquittal; and

(D) to protect individuals subject to fingerprinting under this section from misuse of the criminal history records; and

(3) to provide each individual subject to fingerprinting under this section with the right to complete, correct, and explain information contained in the criminal history records prior to any final adverse determination.

d.[190] The Commission may require a person or individual to conduct fingerprinting under subsection a.(1) by authorizing or requiring the use of any alternative biometric method for identification that has been approved by—

(1) the Attorney General; and

(2) the Commission, by regulation.

e.[190] (1) The Commission may establish and collect fees to process fingerprints and criminal history records under this section.

(2) Notwithstanding section 3302(b) of title 31, United States Code, and to the extent approved in appropriation Acts—

(A) a portion of the amounts collected under this subsection in any fiscal year may be retained and used by the Commission to carry out this section; and

(B) the remaining portion of the amounts collected under this subsection in such fiscal year may be transferred periodically to the Attorney General and used by the Attorney General to carry out this section.

(3) Any amount made available for use under paragraph (2) shall remain available until expended.

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## CHAPTER 17. JOINT COMMITTEE ON ATOMIC ENERGY [REPEALED—1977][191]

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## CHAPTER 19. MISCELLANEOUS

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**Sec. 251.[192] Report to Congress.**—* * * [Repealed—1997]

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## CHAPTER 20.[193] JOINT COMMITTEE ON ATOMIC ENERGY ABOLISHED; FUNCTIONS AND RESPONSIBILITIES REASSIGNED

**Sec. 301.[194] Joint Committee on Atomic Energy Abolished.**—

a. The Joint Committee on Atomic Energy is abolished.

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[190] Sec. 652(3) of Public Law 109–58 (119 Stat. 811) redesignated subsec. d. as subsec. e., and sec. 652(4) of that Act added a new subsec. d.

[191] Sec. 302 a. of this Act, as added by Public Law 95–110 (91 Stat. 884), repealed chapter 17. For matters regarding the reassignment of functions and responsibilities of the Joint Committee, see chapter 20.

[192] Sec. 3152(a)(1) of Public Law 105–85 (111 Stat. 2042) repealed sec. 251, which had required the Commission to report annually to Congress on its activities.

[193] Public Law 95–110 (91 Stat. 884) added chapter 20.

[194] 42 U.S.C. 2258.

b. Any reference in any rule, resolution, or order of the Senate or the House of Representatives or in any law, regulation, or Executive order to the Joint Committee on Atomic Energy shall, on and after the date of enactment of this section, be considered as referring to the committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the subject matter of such reference.

c. All records, data, charts, and files of the Joint Committee on Atomic Energy are transferred to the committees of the Senate and House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the subject matters to which such records, data, charts, and files relate. In the event that any record, data, chart, or file shall be within the jurisdiction of more than one committee, duplicate copies shall be provided upon request.

**Sec. 302. Transfers of Certain Functions of the Joint Committee on Atomic Energy and Conforming Amendments to Certain Other Laws.—**

a. Effective on the date of enactment of this section, chapter 17 of this Act is repealed.

b. Section 103 of the Atomic Energy Community Act of 1955, as amended, is repealed.

c. Section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended by—

(1) striking the subsection designation "(a)"; and

(2) repealing subsection (b).

d. Section 252(a)(3) of the Legislative Reorganization Act of 1970 is repealed.

**Sec. 303.[195] Information and Assistance to Congressional Committees.—**

a. The Secretary of Energy and the Nuclear Regulatory Commission shall keep the committees of the Senate and the House of Representatives which under the rules of the Senate and the House, have jurisdiction over the functions of the Secretary or the Commission, fully and currently informed with respect to the activities of the Secretary and the Commission.

b. The Department of Defense and Department of State shall keep the committees of the Senate and the House of Representatives which under the rules of the Senate and the House, have jurisdiction over national security considerations of nuclear energy, fully and currently informed with respect to such matters within the Department of Defense and Department of State relating to national security considerations of nuclear technology which are within the jurisdiction of such committees.

c. Any Government agency shall furnish any information requested by the committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have jurisdiction over the development, utilization, or application of nuclear energy, with respect to the activities or responsibilities of such agency in the field of nuclear energy which are within the jurisdiction of such committees.

d. The committees of the Senate and the House of Representatives which, under the rules of the Senate and the House, have ju-

[195] 42 U.S.C. 2259.

risdiction over the development, utilization, or application of nuclear energy, are authorized to utilize the services, information, facilities, and personnel of any Government agency which has activities or responsibilities in the field of nuclear energy which are within the jurisdiction of such committees: *Provided, however,* That any utilization of personnel by such committees shall be on a reimbursable basis and shall require, with respect to committees of the Senate, the prior written consent of the Committee on Rules and Administration, and with respect to committees of the House of Representatives, the prior written consent of the Committee on House Oversight.[196]

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## TITLE II—UNITED STATES ENRICHMENT CORPORATION

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NOTE.—Sec. 3116(a) of the USEC Privatization Act (subchapter A of chapter 1 of title III of Public Law 104–134; 110 Stat. 349) repealed chapters 22 through 26 of this Act, upon privatization of the United States Enrichment Corporation. See freestanding text of USEC Privatization Act, beginning at page 500.

[196] Sec. 222(2) of Public Law 104–186 (110 Stat. 1751) struck out "House Administration" and inserted in lieu thereof "House Oversight".

## (2) United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act

**Partial text of Public Law 110–369 [H.R. 7081], 122 Stat. 4028, approved October 8, 2008**

AN ACT To approve the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a)[1] SHORT TITLE.—This Act may be cited as the "United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Definitions.

**TITLE I—APPROVAL OF UNITED STATES-INDIA AGREEMENT FOR COOPERATION ON PEACEFUL USES OF NUCLEAR ENERGY**

Sec. 101. Approval of Agreement.
Sec. 102. Declarations of policy; certification requirement; rule of construction.
Sec. 103. Additional Protocol between India and the IAEA.
Sec. 104. Implementation of Safeguards Agreement between India and the IAEA.
Sec. 105. Modified reporting to Congress.

**TITLE II—STRENGTHENING UNITED STATES NONPROLIFERATION LAW RELATING TO PEACEFUL NUCLEAR COOPERATION**

Sec. 201. Procedures regarding a subsequent arrangement on reprocessing.
Sec. 202. Initiatives and negotiations relating to agreements for peaceful nuclear cooperation.
Sec. 203. Actions required for resumption of peaceful nuclear cooperation.
Sec. 204. United States Government policy at the Nuclear Suppliers Group to strengthen the international nuclear nonproliferation regime.
Sec. 205. Conforming amendments.

**SEC. 2.[1] DEFINITIONS.**

In this Act:

(1) AGREEMENT.—The term "United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy" or "Agreement" means the Agreement for Cooperation Between the Government of the United States of America and the Government of India Concerning Peaceful Uses of Nuclear Energy that was transmitted to Congress by the President on September 10, 2008.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

[1] 22 U.S.C. 8001 note.

## TITLE I—APPROVAL OF UNITED STATES-INDIA AGREEMENT FOR COOPERATION ON PEACEFUL USES OF NUCLEAR ENERGY

**SEC. 101. APPROVAL OF AGREEMENT.**

(a)[1] IN GENERAL.—Notwithstanding the provisions for congressional consideration and approval of a proposed agreement for cooperation in section 123 b. and d. of the Atomic Energy Act of 1954 (42 U.S.C. 2153 (b) and (d)), Congress hereby approves the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy, subject to subsection (b).

(b)[1] APPLICABILITY OF ATOMIC ENERGY ACT OF 1954, HYDE ACT, AND OTHER PROVISIONS OF LAW.—The Agreement shall be subject to the provisions of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 (22 U.S.C. 8001 et. seq; Public Law 109–401), and any other applicable United States law as if the Agreement had been approved pursuant to the provisions for congressional consideration and approval of a proposed agreement for cooperation in section 123 b. and d. of the Atomic Energy Act of 1954.

(c) SUNSET OF EXEMPTION AUTHORITY UNDER HYDE ACT.—Section 104(f) of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 (22 U.S.C. 8003(f)) is amended * * *

**SEC. 102.[1] DECLARATIONS OF POLICY; CERTIFICATION REQUIREMENT; RULE OF CONSTRUCTION.**

(a) DECLARATIONS OF POLICY RELATING TO MEANING AND LEGAL EFFECT OF AGREEMENT.—Congress declares that it is the understanding of the United States that the provisions of the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy have the meanings conveyed in the authoritative representations provided by the President and his representatives to the Congress and its committees prior to September 20, 2008, regarding the meaning and legal effect of the Agreement.

(b) DECLARATIONS OF POLICY RELATING TO TRANSFER OF NUCLEAR EQUIPMENT, MATERIALS, AND TECHNOLOGY TO INDIA.—Congress makes the following declarations of policy:

(1) Pursuant to section 103(a)(6) of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 (22 U.S.C. 8002(a)(6)), in the event that nuclear transfers to India are suspended or terminated pursuant to title I of such Act (22 U.S.C. 8001 et seq.), the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or any other United States law, it is the policy of the United States to seek to prevent the transfer to India of nuclear equipment, materials, or technology from other participating governments in the Nuclear Suppliers Group (NSG) or from any other source.

(2) Pursuant to section 103(b)(10) of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 (22 U.S.C. 8002(b)(10)), any nuclear power reactor fuel reserve provided to the Government of India for use in safeguarded civilian nuclear facilities should be commensurate with reasonable reactor operating requirements.

(c)[2] CERTIFICATION REQUIREMENT.—Before exchanging diplomatic notes pursuant to Article 16(1) of the Agreement, the President shall certify to Congress that entry into force and implementation of the Agreement pursuant to its terms is consistent with the obligation of the United States under the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (commonly known as the "Nuclear Non-Proliferation Treaty"), not in any way to assist, encourage, or induce India to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices.

(d) RULE OF CONSTRUCTION.—Nothing in the Agreement shall be construed to supersede the legal requirements of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 or the Atomic Energy Act of 1954.

**SEC. 103.[1] ADDITIONAL PROTOCOL BETWEEN INDIA AND THE IAEA.**

Congress urges the Government of India to sign and adhere to an Additional Protocol with the International Atomic Energy Agency (IAEA), consistent with IAEA principles, practices, and policies, at the earliest possible date.

**SEC. 104.[1] IMPLEMENTATION OF SAFEGUARDS AGREEMENT BETWEEN INDIA AND THE IAEA.**

Licenses may be issued by the Nuclear Regulatory Commission for transfers pursuant to the Agreement only after the President determines and certifies to Congress that—

(1) the Agreement Between the Government of India and the International Atomic Energy Agency for the Application of Safeguards to Civilian Nuclear Facilities, as approved by the Board of Governors of the International Atomic Energy Agency on August 1, 2008 (the "Safeguards Agreement"), has entered into force; and

(2) the Government of India has filed a declaration of facilities pursuant to paragraph 13 of the Safeguards Agreement that is not materially inconsistent with the facilities and schedule described in paragraph 14 of the separation plan presented in the national parliament of India on May 11, 2006, taking into account the later initiation of safeguards than was anticipated in the separation plan.

**SEC. 105. MODIFIED REPORTING TO CONGRESS.**

(a) INFORMATION ON NUCLEAR ACTIVITIES OF INDIA.—Subsection (g)(1) of section 104 of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 (22 U.S.C. 8003) is amended— * * *

(b) IMPLEMENTATION AND COMPLIANCE REPORT.—Subsection (g)(2) of such section is amended— * * *

[2] The President made a certification pursuant to this subsection in Presidential Determination No. 2009–6 of October 20, 2008 (73 F.R. 63841; October 28, 2008).

## TITLE II—STRENGTHENING UNITED STATES NONPROLIFERATION LAW RELATING TO PEACEFUL NUCLEAR COOPERATION

### SEC. 201.[1] PROCEDURES REGARDING A SUBSEQUENT ARRANGEMENT ON REPROCESSING.

(a) IN GENERAL.—Notwithstanding section 131 of the Atomic Energy Act of 1954 (42 U.S.C. 2160), no proposed subsequent arrangement concerning arrangements and procedures regarding reprocessing or other alteration in form or content, as provided for in Article 6 of the Agreement, shall take effect until the requirements specified in subsection (b) are met.

(b) REQUIREMENTS.—The requirements referred to in subsection (a) are the following:

(1) The President transmits to the appropriate congressional committees a report containing—

(A) the reasons for entering into such proposed subsequent arrangement;

(B) a detailed description, including the text, of such proposed subsequent arrangement; and

(C) a certification that the United States will pursue efforts to ensure that any other nation that permits India to reprocess or otherwise alter in form or content nuclear material that the nation has transferred to India or nuclear material and by-product material used in or produced through the use of nuclear material, non-nuclear material, or equipment that it has transferred to India requires India to do so under similar arrangements and procedures.

(2) A period of 30 days of continuous session (as defined by section 130 g.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2159 (g)(2)) has elapsed after transmittal of the report required under paragraph (1).

(c) RESOLUTION OF DISAPPROVAL.—Notwithstanding the requirements in subsection (b) having been met, a subsequent arrangement referred to in subsection (a) shall not become effective if during the time specified in subsection (b)(2), Congress adopts, and there is enacted, a joint resolution stating in substance that Congress does not favor such subsequent arrangement. Any such resolution shall be considered pursuant to the procedures set forth in section 130 i. of the Atomic Energy Act of 1954 (42 U.S.C. 2159 (i)), as amended by section 205 of this Act.

### SEC. 202. INITIATIVES AND NEGOTIATIONS RELATING TO AGREEMENTS FOR PEACEFUL NUCLEAR COOPERATION.

Section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) is amended by adding at the end the following: * * *

### SEC. 203. ACTIONS REQUIRED FOR RESUMPTION OF PEACEFUL NUCLEAR COOPERATION.

Section 129 a. of the Atomic Energy Act of 1954 (42 U.S.C.2158 (a)) is amended * * *

### SEC. 204.[1] UNITED STATES GOVERNMENT POLICY AT THE NUCLEAR SUPPLIERS GROUP TO STRENGTHEN THE INTERNATIONAL NUCLEAR NONPROLIFERATION REGIME.

(a) CERTIFICATION.—Before exchanging diplomatic notes pursuant to Article 16(1) of the Agreement, the President shall certify to

the appropriate congressional committees that it is the policy of the United States to work with members of the Nuclear Suppliers Group (NSG), individually and collectively, to agree to further restrict the transfers of equipment and technology related to the enrichment of uranium and reprocessing of spent nuclear fuel.

(b) PEACEFUL USE ASSURANCES FOR CERTAIN BY-PRODUCT MATERIAL.—The President shall seek to achieve, by the earliest possible date, either within the NSG or with relevant NSG Participating Governments, the adoption of principles, reporting, and exchanges of information as may be appropriate to assure peaceful use and accounting of by-product material in a manner that is substantially equivalent to the relevant provisions of the Agreement.

(c) REPORT.—

(1) IN GENERAL.—Not later than six months after the date of the enactment of this Act, and every six months thereafter, the President shall transmit to the appropriate congressional committees a report on efforts by the United States pursuant to subsections (a) and (b).

(2) TERMINATION.—The requirement to transmit the report under paragraph (1) terminates on the date on which the President transmits a report pursuant to such paragraph stating that the objectives in subsections (a) and (b) have been achieved.

**SEC. 205. CONFORMING AMENDMENTS.**

Section 130 i. of the Atomic Energy Act of 1954 (42 U.S.C. 2159 (i)) is amended— * * *

## (3) United States and India Nuclear Cooperation

**Partial text of Public Law 109–401 [Title I of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006; H.R. 5682], 120 Stat. 2726, approved December 18, 2006; as amended by Public Law 110–369 [United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act; H.R. 7081], 122 Stat. 4028, approved October 8, 2008**

AN ACT To exempt from certain requirements of the Atomic Energy Act of 1954 a proposed nuclear agreement for cooperation with India.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### TITLE I—UNITED STATES AND INDIA NUCLEAR COOPERATION

**SEC. 101.[1] SHORT TITLE.**

This title may be cited as the "Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006".

**SEC. 102.[2] SENSE OF CONGRESS.**

It is the sense of Congress that—

(1) preventing the proliferation of nuclear weapons, other weapons of mass destruction, the means to produce them, and the means to deliver them are critical objectives for United States foreign policy;

(2) sustaining the Nuclear Non-Proliferation Treaty (NPT) and strengthening its implementation, particularly its verification and compliance, is the keystone of United States nonproliferation policy;

(3) the NPT has been a significant success in preventing the acquisition of nuclear weapons capabilities and maintaining a stable international security situation;

(4) countries that have never become a party to the NPT and remain outside that treaty's legal regime pose a potential challenge to the achievement of the overall goals of global nonproliferation, because those countries have not undertaken the NPT obligation to prohibit the spread of nuclear weapons capabilities;

(5) it is in the interest of the United States to the fullest extent possible to ensure that those countries that are not States Party to the NPT are responsible in the disposition of any nuclear technology they develop;

(6) it is in the interest of the United States to enter into an agreement for nuclear cooperation arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153)

[1] 22 U.S.C. 8001 note.
[2] 22 U.S.C. 8001.

with a country that has never been a State Party to the NPT if—

(A) the country has demonstrated responsible behavior with respect to the nonproliferation of technology related to nuclear weapons and the means to deliver them;

(B) the country has a functioning and uninterrupted democratic system of government, has a foreign policy that is congruent to that of the United States, and is working with the United States on key foreign policy initiatives related to nonproliferation;

(C) such cooperation induces the country to promulgate and implement substantially improved protections against the proliferation of technology related to nuclear weapons and the means to deliver them, and to refrain from actions that would further the development of its nuclear weapons program; and

(D) such cooperation will induce the country to give greater political and material support to the achievement of United States global and regional nonproliferation objectives, especially with respect to dissuading, isolating, and, if necessary, sanctioning and containing states that sponsor terrorism and terrorist groups that are seeking to acquire a nuclear weapons capability or other weapons of mass destruction capability and the means to deliver such weapons;

(7) the United States should continue its policy of engagement, collaboration, and exchanges with and between India and Pakistan;

(8) strong bilateral relations with India are in the national interest of the United States;

(9) the United States and India share common democratic values and the potential for increasing and sustained economic engagement;

(10) commerce in civil nuclear energy with India by the United States and other countries has the potential to benefit the people of all countries;

(11) such commerce also represents a significant change in United States policy regarding commerce with countries that are not States Party to the NPT, which remains the foundation of the international nonproliferation regime;

(12) any commerce in civil nuclear energy with India by the United States and other countries must be achieved in a manner that minimizes the risk of nuclear proliferation or regional arms races and maximizes India's adherence to international nonproliferation regimes, including, in particular, the guidelines of the Nuclear Suppliers Group (NSG); and

(13) the United States should not seek to facilitate or encourage the continuation of nuclear exports to India by any other party if such exports are terminated under United States law.

**SEC. 103.[3] STATEMENTS OF POLICY.**

(a) IN GENERAL.—The following shall be the policies of the United States:

(1) Oppose the development of a capability to produce nuclear weapons by any non-nuclear weapon state, within or outside of the NPT.

(2) Encourage States Party to the NPT to interpret the right to "develop research, production and use of nuclear energy for peaceful purposes", as set forth in Article IV of the NPT, as being a right that applies only to the extent that it is consistent with the object and purpose of the NPT to prevent the spread of nuclear weapons and nuclear weapons capabilities, including by refraining from all nuclear cooperation with any State Party that the International Atomic Energy Agency (IAEA) determines is not in full compliance with its NPT obligations, including its safeguards obligations.

(3) Act in a manner fully consistent with the Guidelines for Nuclear Transfers and the Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Materials, Software and Related Technology developed by the NSG, and decisions related to the those guidelines, and the rules and practices regarding NSG decisionmaking.

(4) Strengthen the NSG guidelines and decisions concerning consultation by members regarding violations of supplier and recipient understandings by instituting the practice of a timely and coordinated response by NSG members to all such violations, including termination of nuclear transfers to an involved recipient, that discourages individual NSG members from continuing cooperation with such recipient until such time as a consensus regarding a coordinated response has been achieved.

(5) Given the special sensitivity of equipment and technologies related to the enrichment of uranium, the reprocessing of spent nuclear fuel, and the production of heavy water, work with members of the NSG, individually and collectively, to further restrict the transfers of such equipment and technologies, including to India.

(6) Seek to prevent the transfer to a country of nuclear equipment, materials, or technology from other participating governments in the NSG or from any other source if nuclear transfers to that country are suspended or terminated pursuant to this title, the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or any other United States law.

(b) WITH RESPECT TO SOUTH ASIA.—The following shall be the policies of the United States with respect to South Asia:

(1) Achieve, at the earliest possible date, a moratorium on the production of fissile material for nuclear explosive purposes by India, Pakistan, and the People's Republic of China.

(2) Achieve, at the earliest possible date, the conclusion and implementation of a treaty banning the production of fissile material for nuclear weapons to which both the United States and India become parties.

(3) Secure India's—

[3] 22 U.S.C. 8002.

(A) full participation in the Proliferation Security Initiative;

(B) formal commitment to the Statement of Interdiction Principles of such Initiative;

(C) public announcement of its decision to conform its export control laws, regulations, and policies with the Australia Group and with the Guidelines, Procedures, Criteria, and Control Lists of the Wassenaar Arrangement;

(D) demonstration of satisfactory progress toward implementing the decision described in subparagraph (C); and

(E) ratification of or accession to the Convention on Supplementary Compensation for Nuclear Damage, done at Vienna on September 12, 1997.

(4) Secure India's full and active participation in United States efforts to dissuade, isolate, and, if necessary, sanction and contain Iran for its efforts to acquire weapons of mass destruction, including a nuclear weapons capability and the capability to enrich uranium or reprocess nuclear fuel, and the means to deliver weapons of mass destruction.

(5) Seek to halt the increase of nuclear weapon arsenals in South Asia and to promote their reduction and eventual elimination.

(6) Ensure that spent fuel generated in India's civilian nuclear power reactors is not transferred to the United States except pursuant to the Congressional review procedures required under section 131 f. of the Atomic Energy Act of 1954 (42 U.S.C. 2160 (f)).

(7) Pending implementation of the multilateral moratorium described in paragraph (1) or the treaty described in paragraph (2), encourage India not to increase its production of fissile material at unsafeguarded nuclear facilities.

(8) Ensure that any safeguards agreement or Additional Protocol to which India is a party with the IAEA can reliably safeguard any export or reexport to India of any nuclear materials and equipment.

(9) Ensure that the text and implementation of any agreement for cooperation with India arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) meet the requirements set forth in subsections a.(1) and a.(3) througha.(9) of such section.

(10) Any nuclear power reactor fuel reserve provided to the Government of India for use in safeguarded civilian nuclear facilities should be commensurate with reasonable reactor operating requirements.

**SEC. 104.[4] WAIVER AUTHORITY AND CONGRESSIONAL APPROVAL.**

(a) IN GENERAL.—If the President makes the determination described in subsection (b), the President may—

(1) exempt a proposed agreement for cooperation with India arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) from the requirement of subsection a.(2) of such section;

[4] 22 U.S.C. 8003.

(2) waive the application of section 128 of the Atomic Energy Act of 1954 (42 U.S.C. 2157) with respect to exports to India; and

(3) waive with respect to India the application of—

(A) section 129 a.(1)(D) of the Atomic Energy Act of 1954 (42 U.S.C. 2158(a)(1)(D)); and

(B) section 129 of such Act (42 U.S.C. 2158) regarding any actions that occurred before July 18, 2005.

(b) DETERMINATION BY THE PRESIDENT.—The determination referred to in subsection (a) is a determination by the President that the following actions have occurred:

(1) India has provided the United States and the IAEA with a credible plan to separate civil and military nuclear facilities, materials, and programs, and has filed a declaration regarding its civil facilities and materials with the IAEA.

(2) India and the IAEA have concluded all legal steps required prior to signature by the parties of an agreement requiring the application of IAEA safeguards in perpetuity in accordance with IAEA standards, principles, and practices (including IAEA Board of Governors Document GOV/1621 (1973)) to India's civil nuclear facilities, materials, and programs as declared in the plan described in paragraph (1), including materials used in or produced through the use of India's civil nuclear facilities.

(3) India and the IAEA are making substantial progress toward concluding an Additional Protocol consistent with IAEA principles, practices, and policies that would apply to India's civil nuclear program.

(4) India is working actively with the United States for the early conclusion of a multilateral treaty on the cessation of the production of fissile materials for use in nuclear weapons or other nuclear explosive devices.

(5) India is working with and supporting United States and international efforts to prevent the spread of enrichment and reprocessing technology to any state that does not already possess full-scale, functioning enrichment or reprocessing plants.

(6) India is taking the necessary steps to secure nuclear and other sensitive materials and technology, including through—

(A) the enactment and effective enforcement of comprehensive export control legislation and regulations;

(B) harmonization of its export control laws, regulations, policies, and practices with the guidelines and practices of the Missile Technology Control Regime (MTCR) and the NSG; and

(C) adherence to the MTCR and the NSG in accordance with the procedures of those regimes for unilateral adherence.

(7) The NSG has decided by consensus to permit supply to India of nuclear items covered by the guidelines of the NSG.

(c) SUBMISSION TO CONGRESS.—

(1) IN GENERAL.—The President shall submit to the appropriate congressional committees the determination made pursuant to subsection (b), together with a report detailing the basis for the determination.

(2) INFORMATION TO BE INCLUDED.—To the fullest extent available to the United States, the report referred to in paragraph (1) shall include the following information:

(A) A summary of the plan provided by India to the United States and the IAEA to separate India's civil and military nuclear facilities, materials, and programs, and the declaration made by India to the IAEA identifying India's civil facilities to be placed under IAEA safeguards, including an analysis of the credibility of such plan and declaration, together with copies of the plan and declaration.

(B) A summary of the agreement that has been entered into between India and the IAEA requiring the application of safeguards in accordance with IAEA practices to India's civil nuclear facilities as declared in the plan described in subparagraph (A), together with a copy of the agreement, and a description of the progress toward its full implementation.

(C) A summary of the progress made toward conclusion and implementation of an Additional Protocol between India and the IAEA, including a description of the scope of such Additional Protocol.

(D) A description of the steps that India is taking to work with the United States for the conclusion of a multilateral treaty banning the production of fissile material for nuclear weapons, including a description of the steps that the United States has taken and will take to encourage India to identify and declare a date by which India would be willing to stop production of fissile material for nuclear weapons unilaterally or pursuant to a multilateral moratorium or treaty.

(E) A description of the steps India is taking to prevent the spread of nuclear-related technology, including enrichment and reprocessing technology or materials that can be used to acquire a nuclear weapons capability, as well as the support that India is providing to the United States to further United States objectives to restrict the spread of such technology.

(F) A description of the steps that India is taking to secure materials and technology applicable for the development, acquisition, or manufacture of weapons of mass destruction and the means to deliver such weapons through the application of comprehensive export control legislation and regulations, and through harmonization with and adherence to MTCR, NSG, Australia Group, and Wassenaar Arrangement guidelines, compliance with United Nations Security Council Resolution 1540, and participation in the Proliferation Security Initiative.

(G) A description and assessment of the specific measures that India has taken to fully and actively participate in United States and international efforts to dissuade, isolate, and, if necessary, sanction and contain Iran for its efforts to acquire weapons of mass destruction, including a nuclear weapons capability and the capability to enrich

uranium or reprocess nuclear fuel and the means to deliver weapons of mass destruction.

(H) A description of the decision of the NSG relating to nuclear cooperation with India, including whether nuclear cooperation by the United States under an agreement for cooperation arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) is consistent with the decision, practices, and policies of the NSG.

(I) A description of the scope of peaceful cooperation envisioned by the United States and India that will be implemented under the agreement for nuclear cooperation, including whether such cooperation will include the provision of enrichment and reprocessing technology.

(J) A description of the steps taken to ensure that proposed United States civil nuclear cooperation with India will not in any way assist India's nuclear weapons program.

(d) RESTRICTIONS ON NUCLEAR TRANSFERS.—

(1) IN GENERAL.—Pursuant to the obligations of the United States under Article I of the NPT, nothing in this title constitutes authority to carry out any civil nuclear cooperation between the United States and a country that is not a nuclear-weapon State Party to the NPT that would in any way assist, encourage, or induce that country to manufacture or otherwise acquire nuclear weapons or nuclear explosive devices.

(2) NSG TRANSFER GUIDELINES.—Notwithstanding the entry into force of an agreement for cooperation with India arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) and pursuant to this title, no item subject to such agreement or subject to the transfer guidelines of the NSG, or to NSG decisions related thereto, may be transferred to India if such transfer would be inconsistent with the transfer guidelines of the NSG in effect on the date of the transfer.

(3) TERMINATION OF NUCLEAR TRANSFERS TO INDIA.—

(A) IN GENERAL.—Notwithstanding the entry into force of an agreement for cooperation with India arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) and pursuant to this title, and except as provided under subparagraph (B), exports of nuclear and nuclear-related material, equipment, or technology to India shall be terminated if there is any materially significant transfer by an Indian person of—

(i) nuclear or nuclear-related material, equipment, or technology that is not consistent with NSG guidelines or decisions, or

(ii) ballistic missiles or missile-related equipment or technology that is not consistent with MTCR guidelines, unless the President determines that cessation of such exports would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security.

(B) EXCEPTION.—The President may choose not to terminate exports of nuclear and nuclear-related material,

equipment, and technology to India under subparagraph (A) if—

(i) the transfer covered under such subparagraph was made without the knowledge of the Government of India;

(ii) at the time of the transfer, either the Government of India did not own, control, or direct the Indian person that made the transfer or the Indian person that made the transfer is a natural person who acted without the knowledge of any entity described in subparagraph (B) or (C) of section 110(5); and

(iii) the President certifies to the appropriate congressional committees that the Government of India has taken or is taking appropriate judicial or other enforcement actions against the Indian person with respect to such transfer.

(4) EXPORTS, REEXPORTS, TRANSFERS, AND RETRANSFERS TO INDIA RELATED TO ENRICHMENT, REPROCESSING, AND HEAVY WATER PRODUCTION.—

(A) IN GENERAL.—

(i) NUCLEAR REGULATORY COMMISSION.—The Nuclear Regulatory Commission may only issue licenses for the export or reexport to India of any equipment, components, or materials related to the enrichment of uranium, the reprocessing of spent nuclear fuel, or the production of heavy water if the requirements of subparagraph (B) are met.

(ii) SECRETARY OF ENERGY.—The Secretary of Energy may only issue authorizations for the transfer or retransfer to India of any equipment, materials, or technology related to the enrichment of uranium, the reprocessing of spent nuclear fuel, or the production of heavy water (including under the terms of a subsequent arrangement under section 131 of the Atomic Energy Act of 1954 (42 U.S.C. 2160)) if the requirements of subparagraph (B) are met.

(B) REQUIREMENTS FOR APPROVALS.—Exports, reexports, transfers, and retransfers referred to in subparagraph (A) may only be approved if—

(i) the end user—

(I) is a multinational facility participating in an IAEA-approved program to provide alternatives to national fuel cycle capabilities; or

(II) is a facility participating in, and the export, reexport, transfer, or retransfer is associated with, a bilateral or multinational program to develop a proliferation-resistant fuel cycle;

(ii) appropriate measures are in place at any facility referred to in clause (i) to ensure that no sensitive nuclear technology, as defined in section 4(5) of the Nuclear Nonproliferation Act of 1978 (22 U.S.C. 3203(5)), will be diverted to any person, site, facility, location, or program not under IAEA safeguards; and

(iii) the President determines that the export, reexport, transfer, or retransfer will not assist in the manufacture or acquisition of nuclear explosive devices or the production of fissile material for military purposes.

(5) NUCLEAR EXPORT ACCOUNTABILITY PROGRAM.—

(A) IN GENERAL.—The President shall ensure that all appropriate measures are taken to maintain accountability with respect to nuclear materials, equipment, and technology sold, leased, exported, or reexported to India so as to ensure—

(i) full implementation of the protections required under section 123 a.(1) of the Atomic Energy Act of 1954 (42 U.S.C. 2153 (a)(1)); and

(ii) United States compliance with Article I of the NPT.

(B) MEASURES.—The measures taken pursuant to subparagraph (A) shall include the following:

(i) Obtaining and implementing assurances and conditions pursuant to the export licensing authorities of the Nuclear Regulatory Commission and the Department of Commerce and the authorizing authorities of the Department of Energy, including, as appropriate, conditions regarding end-use monitoring.

(ii) A detailed system of reporting and accounting for technology transfers, including any retransfers in India, authorized by the Department of Energy pursuant to section 57 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2077(b)). Such system shall be capable of providing assurances that—

(I) the identified recipients of the nuclear technology are authorized to receive the nuclear technology;

(II) the nuclear technology identified for transfer will be used only for peaceful safeguarded nuclear activities and will not be used for any military or nuclear explosive purpose; and

(III) the nuclear technology identified for transfer will not be retransferred without the prior consent of the United States, and facilities, equipment, or materials derived through the use of transferred technology will not be transferred without the prior consent of the United States.

(iii) In the event the IAEA is unable to implement safeguards as required by an agreement for cooperation arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153), appropriate assurance that arrangements will be put in place expeditiously that are consistent with the requirements of section 123 a.(1) of such Act (42 U.S.C. 2153(a)(1)) regarding the maintenance of safeguards as set forth in the agreement regardless of whether the agreement is terminated or suspended for any reason.

(C) IMPLEMENTATION.—The measures described in subparagraph (B) shall be implemented to provide reasonable

assurances that the recipient is complying with the relevant requirements, terms, and conditions of any licenses issued by the United States regarding such exports, including those relating to the use, retransfer, safe handling, secure transit, and storage of such exports.

(e) JOINT RESOLUTION OF APPROVAL REQUIREMENT.—Section 123 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2153(d)) is amended in the second proviso by inserting after "that subsection" the following: ", or an agreement exempted pursuant to section 104(a)(1) of the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006,".

(f) SUNSET.—The authority provided under subsection (a)(1) to exempt an agreement shall terminate upon the date of the enactment of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act.[5]

(g) REPORTING TO CONGRESS.—

(1) INFORMATION ON NUCLEAR ACTIVITIES OF INDIA.—The President shall keep the appropriate congressional committees fully and currently informed of the facts and implications of any significant nuclear activities of India, including—

(A) any material noncompliance on the part of the Government of India with—

(i) the nonproliferation commitments undertaken in the Joint Statement of July 18, 2005, between the President of the United States and the Prime Minister of India;

(ii) the separation plan presented in the national parliament of India on March 7, 2006, and in greater detail on May 11, 2006;

(iii) a safeguards agreement between the Government of India and the IAEA;

(iv) an Additional Protocol between the Government of India and the IAEA;

(v) an agreement for cooperation between the Government of India and the United States Government arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) or any subsequent arrangement under section 131 of such Act (42 U.S.C. 2160);

(vi) the terms and conditions of any approved licenses regarding the export or reexport of nuclear material or dual-use material, equipment, or technology; and

(vii) United States laws and regulations regarding such licenses;

[5] Sec. 101(c) of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act (Public Law 110–369; 122 Stat. 4029) struck out "the enactment of a joint resolution under section 123 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2153(d)) approving such an agreement" and inserted in lieu thereof "the date of the enactment of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act".

(B)[6] any material inconsistencies between the content or timeliness of notifications by the Government of India pursuant to paragraph 14(a) of the Safeguards Agreement and the facilities and schedule described in paragraph (14) of the separation plan presented in the national parliament of India on May 11, 2006, taking into account the later initiation of safeguards than was anticipated in the separation plan;

(C)[6] the construction of a nuclear facility in India after the date of the enactment of this title;

(D)[6] significant changes in the production by India of nuclear weapons or in the types or amounts of fissile material produced; and

(E)[6] changes in the purpose or operational status of any unsafeguarded nuclear fuel cycle activities in India.

(2) IMPLEMENTATION AND COMPLIANCE REPORT.—Not later than 180 days after the date on which an agreement for cooperation with India arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) enters into force, and annually thereafter, the President shall submit to the appropriate congressional committees a report including—

(A) a description of any additional nuclear facilities and nuclear materials that the Government of India has placed or intends to place under IAEA safeguards;

(B) a comprehensive listing of—

(i) all licenses that have been approved by the Nuclear Regulatory Commission and the Secretary of Energy for exports and reexports to India under parts 110 and 810 of title 10, Code of Federal Regulations;

(ii) any licenses approved by the Department of Commerce for the export or reexport to India of commodities, related technology, and software which are controlled for nuclear nonproliferation reasons on the Nuclear Referral List of the Commerce Control List maintained under part 774 of title 15, Code of Federal Regulation, or any successor regulation;

(iii) any other United States authorizations for the export or reexport to India of nuclear materials and equipment; and

(iv) with respect to each such license or other form of authorization described in clauses (i), (ii), and (iii)—

(I) the number or other identifying information of each license or authorization;

(II) the name or names of the authorized end user or end users;

(III) the name of the site, facility, or location in India to which the export or reexport was made;

(IV) the terms and conditions included on such licenses and authorizations;

[6] Sec. 105(a) of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act (Public Law 110–369; 122 Stat. 4030) added a new subpara. (B), and redesignated former subparas. (B), (C), and (D) as subparas. (C), (D), and (E), respectively.

(V) any post-shipment verification procedures that will be applied to such exports or reexports; and

(VI) the term of validity of each such license or authorization;

(C) a description of any significant nuclear commerce between India and other countries, including any such trade that—

(i) is not consistent with applicable guidelines or decisions of the NSG; or

(ii) would not meet the standards applied to exports or reexports of such material, equipment, or technology of United States origin;

(D) either—

(i) an assessment that India is in full compliance with the commitments and obligations contained in the agreements and other documents referenced in clauses (i) through (vi) of paragraph (1)(A); or

(ii) an identification and analysis of all compliance issues arising with regard to the adherence by India to its commitments and obligations, including—

(I) the measures the United States Government has taken to remedy or otherwise respond to such compliance issues;

(II) the responses of the Government of India to such measures;

(III) the measures the United States Government plans to take to this end in the coming year; and

(IV) an assessment of the implications of any continued noncompliance, including whether nuclear commerce with India remains in the national security interest of the United States;

(E)(i) an assessment of whether India is fully and actively participating in United States and international efforts to dissuade, isolate, and, if necessary, sanction and contain Iran for its efforts to acquire weapons of mass destruction, including a nuclear weapons capability (including the capability to enrich uranium or reprocess nuclear fuel), and the means to deliver weapons of mass destruction, including a description of the specific measures that India has taken in this regard; and

(ii) if India is not assessed to be fully and actively participating in such efforts, a description of—

(I) the measures the United States Government has taken to secure India's full and active participation in such efforts;

(II) the responses of the Government of India to such measures; and

(III) the measures the United States Government plans to take in the coming year to secure India's full and active participation;

(F) an analysis of whether United States civil nuclear cooperation with India is in any way assisting India's nuclear weapons program, including through—

(i) the use of any United States equipment, technology, or nuclear material by India in an unsafeguarded nuclear facility or nuclear-weapons related complex;

(ii) the replication and subsequent use of any United States technology by India in an unsafeguarded nuclear facility or unsafeguarded nuclear weapons-related complex, or for any activity related to the research, development, testing, or manufacture of nuclear explosive devices; and

(iii) the provision of nuclear fuel in such a manner as to facilitate the increased production by India of highly enriched uranium or plutonium in unsafeguarded nuclear facilities;

(G) a detailed description of—

(i) United States efforts to promote national or regional progress by India and Pakistan in disclosing, securing, limiting, and reducing their fissile material stockpiles, including stockpiles for military purposes, pending creation of a worldwide fissile material cutoff regime, including the institution of a Fissile Material Cut-off Treaty;

(ii) the responses of India and Pakistan to such efforts; and

(iii) assistance that the United States is providing, or would be able to provide, to India and Pakistan to promote the objectives in clause (i), consistent with its obligations under international law and existing agreements;

(H) an estimate of—

(i) the amount of uranium mined and milled in India during the previous year;

(ii) the amount of such uranium that has likely been used or allocated for the production of nuclear explosive devices; and

(iii) the rate of production in India of—

(I) fissile material for nuclear explosive devices; and

(II) nuclear explosive devices;

(I) an estimate of the amount of electricity India's nuclear reactors produced for civil purposes during the previous year and the proportion of such production that can be attributed to India's declared civil reactors;

(J) an analysis as to whether imported uranium has affected the rate of production in India of nuclear explosive devices;

(K) a detailed description of efforts and progress made toward the achievement of India's—

(i) full participation in the Proliferation Security Initiative;

(ii) formal commitment to the Statement of Interdiction Principles of such Initiative;

(iii) public announcement of its decision to conform its export control laws, regulations, and policies with the Australia Group and with the Guidelines, Procedures, Criteria, and Controls List of the Wassenaar Arrangement; and

(iv) effective implementation of the decision described in clause (iii);[7]

(L) the disposal during the previous year of spent nuclear fuel from India's civilian nuclear program, and any plans or activities relating to future disposal of such spent nuclear fuel; and[7]

(M)[7] with respect to the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy (hereinafter in this subparagraph referred to as the 'Agreement') approved under section 101(a) of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act—

(i) a listing of—

(I) all provision of sensitive nuclear technology to India, and other such information as may be so designated by the United States or India under Article 1(Q); and

(II) all facilities in India notified pursuant to Article 7(1) of the Agreement;

(ii) a description of—

(I) any agreed safeguards or any other form of verification for by-product material decided by mutual agreement pursuant to the terms of Article 1(A) of the Agreement;

(II) research and development undertaken in such areas as may be agreed between the United States and India as detailed in Article 2(2)(a.) of the Agreement;

(III) the civil nuclear cooperation activities undertaken under Article 2(2)(d.) of the Agreement;

(IV) any United States efforts to help India develop a strategic reserve of nuclear fuel as called for in Article 2(2)(e.) of the Agreement;

(V) any United States efforts to fulfill political commitments made in Article 5(6) of the Agreement;

(VI) any negotiations that have occurred or are ongoing under Article 6(iii.) of the Agreement; and

(VII) any transfers beyond the territorial jurisdiction of India pursuant to Article 7(2) of the Agreement, including a listing of the receiving country of each such transfer;

(iii) an analysis of—

[7] Sec. 105(b) of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act (Public Law 110–369; 122 Stat. 4031) struck out "and" at the end of subpara. (K)(iv), struck out the period and inserted in lieu thereof "; and" at the end of subpara. (L), and added a new subpara. (M).

(I) any instances in which the United States or India requested consultations arising from concerns over compliance with the provisions of Article 7(1) of the Agreement, and the results of such consultations; and

(II) any matters not otherwise identified in this report that have become the subject of consultations pursuant to Article 13(2) of the Agreement, and a statement as to whether such matters were resolved by the end of the reporting period; and

(iv) a statement as to whether—

(I) any consultations are expected to occur under Article 16(5) of the Agreement; and

(II) any enrichment is being carried out pursuant to Article 6 of the Agreement.

(3) SUBMITTAL WITH OTHER ANNUAL REPORTS.—

(A) REPORT ON PROLIFERATION PREVENTION.—Each annual report submitted under paragraph (2) after the initial report may be submitted together with the annual report on proliferation prevention required under section 601(a) of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3281(a)).

(B) REPORT ON PROGRESS TOWARD REGIONAL NONPROLIFERATION.—The information required to be submitted under paragraph (2)(F) after the initial report may be submitted together with the annual report on progress toward regional nonproliferation required under section 620F(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2376(c)).

(4) FORM.—Each report submitted under this subsection shall be submitted in unclassified form, but may contain a classified annex.

**SEC. 105.[8] UNITED STATES COMPLIANCE WITH ITS NUCLEAR NONPROLIFERATION TREATY OBLIGATIONS.**

Nothing in this title constitutes authority for any action in violation of an obligation of the United States under the NPT.

**SEC. 106.[9] INOPERABILITY OF DETERMINATION AND WAIVERS.**

A determination and any waiver under section 104 shall cease to be effective if the President determines that India has detonated a nuclear explosive device after the date of the enactment of this title.

**SEC. 107.[10] MTCR ADHERENT STATUS.**

Congress finds that India is not an MTCR adherent for the purposes of section 73 of the Arms Export Control Act (22 U.S.C. 2797b).

**SEC. 108. TECHNICAL AMENDMENT.**

Section 1112(c)(4) of the Arms Control and Nonproliferation Act of 1999 (title XI of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted into law by section 1000(a)(7) of Public Law 106–113

[8] 22 U.S.C. 8004.
[9] 22 U.S.C. 8005.
[10] 22 U.S.C. 8006.

and contained in appendix G of that Act; 113 Stat. 1501A–486)) is amended— * * *

**SEC. 109.[11] UNITED STATES-INDIA SCIENTIFIC COOPERATIVE NUCLEAR NONPROLIFERATION PROGRAM.**

(a) ESTABLISHMENT.—The Secretary of Energy, acting through the Administrator of the National Nuclear Security Administration, is authorized to establish a cooperative nuclear nonproliferation program to pursue jointly with scientists from the United States and India a program to further common nuclear nonproliferation goals, including scientific research and development efforts, with an emphasis on nuclear safeguards (in this section referred to as "the program").

(b) CONSULTATION.—The program shall be carried out in consultation with the Secretary of State and the Secretary of Defense.

(c) NATIONAL ACADEMIES RECOMMENDATIONS.—

(1) IN GENERAL.—The Secretary of Energy shall enter into an agreement with the National Academies to develop recommendations for the implementation of the program.

(2) RECOMMENDATIONS.—The agreement entered into under paragraph (1) shall provide for the preparation by qualified individuals with relevant expertise and knowledge and the communication to the Secretary of Energy each fiscal yearof—

(A) recommendations for research and related programs designed to overcome existing technological barriers to nuclear nonproliferation; and

(B) an assessment of whether activities and programs funded under this section are achieving the goals of the activities and programs.

(3) PUBLIC AVAILABILITY.—The recommendations and assessments prepared under this subsection shall be made publicly available.

(d) CONSISTENCY WITH NUCLEAR NON-PROLIFERATION TREATY.—All United States activities related to the program shall be consistent with United States obligations under the Nuclear Non-Proliferation Treaty.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2007 through 2011.

**SEC. 110.[12] DEFINITIONS.**

In this title:

(1) The term "Additional Protocol" means a protocol additional to a safeguards agreement with the IAEA, as negotiated between a country and the IAEA based on a Model Additional Protocol as set forth in IAEA information circular (INFCIRC) 540.

(2) The term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

[11] 22 U.S.C. 8007.
[12] 22 U.S.C. 8008.

(3) The term "dual-use material, equipment, or technology" means material, equipment, or technology that may be used in nuclear or nonnuclear applications.

(4) The term "IAEA safeguards" has the meaning given the term in section 830(3) of the Nuclear Proliferation Prevention Act of 1994 (22 U.S.C. 6305(3)).

(5) The term "Indian person" means—

(A) a natural person that is a citizen of India or is subject to the jurisdiction of the Government of India;

(B) a corporation, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group, that is organized under the laws of India or has its principal place of business in India; and

(C) any Indian governmental entity, including any governmental entity operating as a business enterprise.

(6) The terms "Missile Technology Control Regime", "MTCR", and "MTCR adherent" have the meanings given the terms in section 74 of the Arms Export Control Act (22 U.S.C. 2797c).

(7) The term "nuclear materials and equipment" means source material, special nuclear material, production and utilization facilities and any components thereof, and any other items or materials that are determined to have significance for nuclear explosive purposes pursuant to subsection 109 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2139(b)).

(8) The terms "Nuclear Non-Proliferation Treaty" and "NPT" mean the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (21 UST 483).

(9) The terms "Nuclear Suppliers Group" and "NSG" refer to a group, which met initially in 1975 and has met at least annually since 1992, of Participating Governments that have promulgated and agreed to adhere to Guidelines for Nuclear Transfers (currently IAEA INFCIRC/254/Rev.8/Part 1) and Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Materials, Software, and Related Technology (currently IAEA INFCIRC/254/Rev.7/Part 2).

(10) The terms "nuclear weapon" and "nuclear explosive device" mean any device designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT).

(11) The term "process" includes the term "reprocess".

(12) The terms "reprocessing" and "reprocess" refer to the separation of irradiated nuclear materials and fission products from spent nuclear fuel.

(13) The term "sensitive nuclear technology" means any information, including information incorporated in a production or utilization facility or important component part thereof, that is not available to the public and which is important to the design, construction, fabrication, operation, or maintenance of a uranium enrichment or nuclear fuel reprocessing facility or a facility for the production of heavy water.

(14) The term "source material" has the meaning given the term in section 11 z. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(z)).

(15) The term "special nuclear material" has the meaning given the term in section 11 aa. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(aa)).

(16) The term "unsafeguarded nuclear fuel-cycle activity" means research on, or development, design, manufacture, construction, operation, or maintenance of—

(A) any existing or future reactor, critical facility, conversion plant, fabrication plant, reprocessing plant, plant for the separation of isotopes of source or special fissionable material, or separate storage installation with respect to which there is no obligation to accept IAEA safeguards at the relevant reactor, facility, plant, or installation that contains source or special fissionable material; or

(B) any existing or future heavy water production plant with respect to which there is no obligation to accept IAEA safeguards on any nuclear material produced by or used in connection with any heavy water produced therefrom.

## (4) North Korea Threat Reduction Act of 1999

**Partial text of Public Law 106–113 [Consolidated Appropriations Act, 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999; as amended by Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002**

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## Subtitle B—North Korea Threat Reduction [1]

**SEC. 821. SHORT TITLE.**

This subtitle may be cited as the "North Korea Threat Reduction Act of 1999".

**SEC. 822. RESTRICTIONS ON NUCLEAR COOPERATION WITH NORTH KOREA.**

(a) IN GENERAL.—Notwithstanding any other provision of law or any international agreement, no agreement for cooperation (as defined in sec. 11 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2014 b.)) between the United States and North Korea may become effective, no license may be issued for export directly or indirectly to North Korea of any specified nuclear item,[2] and no approval may be given for the transfer or retransfer directly or indirectly to North Korea of any specified nuclear item [2] until the President determines and reports to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate that—

(1) North Korea has come into full compliance with its safeguards agreement with the IAEA (INFCIRC/403), and has taken all steps that have been deemed necessary by the IAEA in this regard;

(2) North Korea has permitted the IAEA full access to all additional sites and all information (including historical records) deemed necessary by the IAEA to verify the accuracy and completeness of North Korea's initial report of May 4, 1992, to the IAEA on all nuclear sites and material in North Korea;

(3) North Korea is in full compliance with its obligations under the Agreed Framework;

(4) North Korea has consistently taken steps to implement the Joint Declaration on Denuclearization, and is in full compliance with its obligations under numbered paragraphs 1, 2, and 3 of the Joint Declaration on Denuclearization (excluding in the case of numbered paragraph 3 facilities frozen pursuant to the Agreed Framework);

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[1] Subtitle B of title VIII of H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113.

[2] Sec. 1307(a) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1438) struck out "nuclear material, facilities, components, or other goods, services, or technology that would be subject to such agreement," in both places where it appeared and inserted in lieu thereof "specified nuclear item,".

(5) North Korea does not have uranium enrichment or nuclear reprocessing facilities (excluding facilities frozen pursuant to the Agreed Framework), and is making no significant progress toward acquiring or developing such facilities;

(6) North Korea does not have nuclear weapons and is making no significant effort to acquire, develop, test, produce, or deploy such weapons; and

(7) the transfer to North Korea of key nuclear components, under the proposed agreement for cooperation with North Korea and in accordance with the Agreed Framework, is in the national interest of the United States.

(b) CONSTRUCTION.—The restrictions contained in subsection (a) shall apply in addition to all other applicable procedures, requirements, and restrictions contained in the Atomic Energy Act of 1954 and other laws.

**SEC. 823. DEFINITIONS.**

In this subtitle:

(1) AGREED FRAMEWORK.—The term "Agreed Framework" means the "Agreed Framework Between the United States of America and the Democratic People's Republic of Korea", signed in Geneva on October 21, 1994, and the Confidential Minute to that Agreement.

(2) IAEA.—The term "IAEA" means the International Atomic Energy Agency.

(3) NORTH KOREA.—The term "North Korea" means the Democratic People's Republic of Korea.

(4) JOINT DECLARATION ON DENUCLEARIZATION.—The term "Joint Declaration on Denuclearization" means the Joint Declaration on the Denuclearization of the Korean Peninsula, issued by the Republic of Korea and the Democratic People's Republic of Korea on January 1, 1992.

(5)[3] SPECIFIED NUCLEAR ITEM.—The term "specified nuclear item" includes—

(A) nuclear material, facilities, components, or other goods, services, or technology the transfer of which to North Korea would be required by the Atomic Energy Act of 1954 to be subject to an agreement for cooperation, as defined in section 11 b. of that Act (42 U.S.C. 2014 b.), between the United States and North Korea; and

(B) components that are listed on Annex A or Annex B to the Nuclear Suppliers Group Guidelines for the Export of Nuclear Material, Equipment and Technology (published by the International Atomic Energy Agency as Information Circular INFCIRC/254/Rev. 5/Part 1, or any subsequent revision thereof).

[3] Sec. 1307(b) of Public Law 107–228 (116 Stat. 1439) added para. (5) to sec. 823.

## (5) USEC Privatization Act

**Partial text of Public Law 104–134 [Omnibus Consolidated Rescissions and Appropriations Act of 1996; H.R. 3019], 110 Stat. 1321, approved April 26, 1996**

AN ACT Making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

* * * * * * *

TITLE III

RESCISSIONS AND OFFSETS

CHAPTER 1

ENERGY AND WATER DEVELOPMENT

SUBCHAPTER A—UNITED STATES ENRICHMENT CORPORATION PRIVATIZATION

**SEC. 3101.[1] SHORT TITLE.**

This subchapter may be cited as the "USEC Privatization Act".

**SEC. 3102.[2] DEFINITIONS.**

For purposes of this subchapter:

(1) The term "AVLIS" means atomic vapor laser isotope separation technology.

(2) The term "Corporation" means the United States Enrichment Corporation and, unless the context otherwise requires, includes the private corporation and any successor thereto following privatization.

(3) The term "gaseous diffusion plants" means the Paducah Gaseous Diffusion Plant at Paducah, Kentucky and the Portsmouth Gaseous Diffusion Plant at Piketon, Ohio.

(4) The term "highly enriched uranium" means uranium enriched to 20 percent or more of the uranium-235 isotope.

(5) The term "low-enriched uranium" means uranium enriched to less than 20 percent of the uranium-235 isotope, including that which is derived from highly enriched uranium.

(6) The term "low-level radioactive waste" has the meaning given such term in section 2(9) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b(9)).

(7) The term "private corporation" means the corporation established under section 3105.

[1] 42 U.S.C. 2011 note.
[2] 42 U.S.C. 2297h.

(8) The term "privatization" means the transfer of ownership of the Corporation to private investors.

(9) The term "privatization date" means the date on which 100 percent of the ownership of the Corporation has been transferred to private investors.

(10) The term "public offering" means an underwritten offering to the public of the common stock of the private corporation pursuant to section 3104.

(11) The "Russian HEU Agreement" means the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993.

(12) The term "Secretary" means the Secretary of Energy.

(13) The "Suspension Agreement" means the Agreement to Suspend the Antidumping Investigation on Uranium from the Russian Federation, as amended.

(14) The term "uranium enrichment" means the separation of uranium of a given isotopic content into 2 components, 1 having a higher percentage of a fissile isotope and 1 having a lower percentage.

**SEC. 3103.[3] SALE OF THE CORPORATION.**

(a) AUTHORIZATION.—The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer the interest of the United States in the United States Enrichment Corporation to the private sector in a manner that provides for the long-term viability of the Corporation, provides for the continuation by the Corporation of the operation of the Department of Energy's gaseous diffusion plants, provides for the protection of the public interest in maintaining a reliable and economical domestic source of uranium mining, enrichment and conversion services, and, to the extent not inconsistent with such purposes, secures the maximum proceeds to the United States.

(b) PROCEEDS.—Proceeds from the sale of the United States' interest in the Corporation shall be deposited in the general fund of the Treasury.

**SEC. 3104.[4] METHOD OF SALE.**

(a) AUTHORIZATION.—The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer ownership of the assets and obligations of the Corporation to the private corporation established under section 3105 (which may be consummated through a merger or consolidation effected in accordance with, and having the effects provided under, the law of the State of incorporation of the private corporation, as if the Corporation were incorporated thereunder).

(b) BOARD DETERMINATION.—The Board, with the approval of the Secretary of the Treasury, shall select the method of transfer and establish terms and conditions for the transfer that will provide the maximum proceeds to the Treasury of the United States and will provide for the long-term viability of the private corporation, the

[3] 42 U.S.C. 2297h–1.
[4] 42 U.S.C. 2297h–2.

continued operation of the gaseous diffusion plants, and the public interest in maintaining reliable and economical domestic uranium mining and enrichment industries.

(c) ADEQUATE PROCEEDS.—The Secretary of the Treasury shall not allow the privatization of the Corporation unless before the sale date the Secretary of the Treasury determines that the method of transfer will provide the maximum proceeds to the Treasury consistent with the principles set forth in section 3103(a).

(d) APPLICATION OF SECURITIES LAWS.—Any offering or sale of securities by the private corporation shall be subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), and the provisions of the Constitution and laws of any State, territory, or possession of the United States relating to transactions in securities.

(e) EXPENSES.—Expenses of privatization shall be paid from Corporation revenue accounts in the United States Treasury.

**SEC. 3105.[5] ESTABLISHMENT OF PRIVATE CORPORATION.**

(a) INCORPORATION.—(1) The directors of the Corporation shall establish a private for-profit corporation under the laws of a State for the purpose of receiving the assets and obligations of the Corporation at privatization and continuing the business operations of the Corporation following privatization.

(2) The directors of the Corporation may serve as incorporators of the private corporation and shall take all steps necessary to establish the private corporation, including the filing of articles of incorporation consistent with the provisions of this subchapter.

(3) Employees and officers of the Corporation (including members of the Board of Directors) acting in accordance with this section on behalf of the private corporation shall be deemed to be acting in their official capacities as employees or officers of the Corporation for purposes of section 205 of title 18, United States Code.

(b) STATUS OF THE PRIVATE CORPORATION.—(1) The private corporation shall not be an agency, instrumentality, or establishment of the United States, a Government corporation, or a Government-controlled corporation.

(2) Except as otherwise provided by this subchapter, financial obligations of the private corporation shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

(3) No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on actions of the private corporation.

(c) APPLICATION OF POST-GOVERNMENT EMPLOYMENT RESTRICTIONS.—Beginning on the privatization date, the restrictions stated in section 207 (a), (b), (c), and (d) of title 18, United States Code, shall not apply to the acts of an individual done in carrying out official duties as a director, officer, or employee of the private corporation, if the individual was an officer or employee of the Corporation (including a director) continuously during the 45 days prior to the privatization date.

(d) DISSOLUTION.—In the event that the privatization does not occur, the Corporation will provide for the dissolution of the private

[5] 42 U.S.C. 2297h–3.

corporation within 1 year of the private corporation's incorporation unless the Secretary of the Treasury or his delegate, upon the Corporation's request, agrees to delay any such dissolution for an additional year.

**SEC. 3106.[6] TRANSFERS TO THE PRIVATE CORPORATION.**

Concurrent with privatization, the Corporation shall transfer to the private corporation—

(1) the lease of the gaseous diffusion plants in accordance with section 3107,

(2) all personal property and inventories of the Corporation,

(3) all contracts, agreements, and leases under section 3108(a),

(4) the Corporation's right to purchase power from the Secretary under section 3108(b),

(5) such funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution as approved by the Secretary of the Treasury, and

(6) all of the Corporation's records, including all of the papers and other documentary materials, regardless of physical form or characteristics, made or received by the Corporation.

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**SEC. 3112.[7] URANIUM TRANSFERS AND SALES.**

(a) TRANSFERS AND SALES BY THE SECRETARY.—The Secretary shall not provide enrichment services or transfer or sell any uranium (including natural uranium concentrates, natural uranium hexafluoride, or enriched uranium in any form) to any person except as consistent with this section.

(b) RUSSIAN HEU.—(1) On or before December 31, 1996, the United States Executive Agent under the Russian HEU Agreement shall transfer to the Secretary without charge title to an amount of uranium hexafluoride equivalent to the natural uranium component of low-enriched uranium derived from at least 18 metric tons of highly enriched uranium purchased from the Russian Executive Agent under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Secretary shall be based on a tails assay of 0.30 $U^{235}$. Uranium hexafluoride transferred to the Secretary pursuant to this paragraph shall be deemed under United States law for all purposes to be of Russian origin.

(2) Within 7 years of the date of enactment of this Act, the Secretary shall sell, and receive payment for, the uranium hexafluoride transferred to the Secretary pursuant to paragraph (1). Such uranium hexafluoride shall be sold—

(A) at any time for use in the United States for the purpose of overfeeding;

(B) at any time for end use outside the United States;

(C) in 1995 and 1996 to the Russian Executive Agent at the purchase price for use in matched sales pursuant to the Suspension Agreement; or,

[6] 42 U.S.C. 2297h–4.
[7] 42 U.S.C. 2297h–10.

(D) in calendar year 2001 for consumption by end users in the United States not prior to January 1, 2002, in volumes not to exceed 3,000,000 pounds $U_3O_8$ equivalent per year.

(3) With respect to all enriched uranium delivered to the United States Executive Agent under the Russian HEU Agreement on or after January 1, 1997, the United States Executive Agent shall, upon request of the Russian Executive Agent, enter into an agreement to deliver concurrently to the Russian Executive Agent an amount of uranium hexafluoride equivalent to the natural uranium component of such uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Russian Executive Agent shall be based on a tails assay of 0.30 $U^{235}$. Title to uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall transfer to the Russian Executive Agent upon delivery of such material to the Russian Executive Agent, with such delivery to take place at a North American facility designated by the Russian Executive Agent. Uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall be deemed under U.S. law for all purposes to be of Russian origin. Such uranium hexafluoride may be sold to any person or entity for delivery and use in the United States only as permitted in subsections (b)(5), (b)(6) and (b)(7) of this section.

(4) In the event that the Russian Executive Agent does not exercise its right to enter into an agreement to take delivery of the natural uranium component of any low-enriched uranium, as contemplated in paragraph (3), within 90 days of the date such low-enriched uranium is delivered to the United States Executive Agent, or upon request of the Russian Executive Agent, then the United States Executive Agent shall engage an independent entity through a competitive selection process to auction an amount of uranium hexafluoride or $U_3O_8$ (in the event that the conversion component of such hexafluoride has previously been sold) equivalent to the natural uranium component of such low-enriched uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement. Such independent entity shall sell such uranium hexafluoride in one or more lots to any person or entity to maximize the proceeds from such sales, for disposition consistent with the limitations set forth in this subsection. The independent entity shall pay to the Russian Executive Agent the proceeds of any such auction less all reasonable transaction and other administrative costs. The quantity of such uranium hexafluoride auctioned shall be based on a tails assay of 0.30 $U^{235}$. Title to uranium hexafluoride auctioned pursuant to this paragraph shall transfer to the buyer of such material upon delivery of such material to the buyer. Uranium hexafluoride auctioned pursuant to this paragraph shall be deemed under United States law for all purposes to be of Russian origin.

(5) Except as provided in paragraphs (6) and (7), uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4), may not be delivered for consumption by end users in the United States either directly or indirectly prior to January 1, 1998, and thereafter only in accordance with the following schedule:

**Annual Maximum Deliveries to End Users**

| Year: | (millions lbs. $U_3O_8$ equivalent) |
|---|---|
| 1998 | 2 |
| 1999 | 4 |
| 2000 | 6 |
| 2001 | 8 |
| 2002 | 10 |
| 2003 | 12 |
| 2004 | 14 |
| 2005 | 16 |
| 2006 | 17 |
| 2007 | 18 |
| 2008 | 19 |
| 2009 and each year thereafter | 20 |

(6) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time as Russian-origin natural uranium in a matched sale pursuant to the Suspension Agreement, and in such case shall not be counted against the annual maximum deliveries set forth in paragraph (5).

(7) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time for use in the United States for the purpose of overfeeding in the operations of enrichment facilities.

(8) Nothing in this subsection (b) shall restrict the sale of the conversion component of such uranium hexafluoride.

(9) The Secretary of Commerce shall have responsibility for the administration and enforcement of the limitations set forth in this subsection. The Secretary of Commerce may require any person to provide any certifications, information, or take any action that may be necessary to enforce these limitations. The United States Customs Service shall maintain and provide any information required by the Secretary of Commerce and shall take any action requested by the Secretary of Commerce which is necessary for the administration and enforcement of the uranium delivery limitations set forth in this section.

(10) The President shall monitor the actions of the United States Executive Agent under the Russian HEU Agreement and shall report to the Congress not later than December 31 of each year on the effect the low-enriched uranium delivered under the Russian HEU Agreement is having on the domestic uranium mining, conversion, and enrichment industries, and the operation of the gaseous diffusion plants. Such report shall include a description of actions taken or proposed to be taken by the President to prevent or

mitigate any material adverse impact on such industries or any loss of employment at the gaseous diffusion plants as a result of the Russian HEU Agreement.

(c) TRANSFERS TO THE CORPORATION.—(1) The Secretary shall transfer to the Corporation without charge up to 50 metric tons of enriched uranium and up to 7,000 metric tons of natural uranium from the Department of Energy's stockpile, subject to the restrictions in subsection (c)(2).

(2) The Corporation shall not deliver for commercial end use in the United States—

(A) any of the uranium transferred under this subsection before January 1, 1998;

(B) more than 10 percent of the uranium (by uranium hexafluoride equivalent content) transferred under this subsection or more than 4,000,000 pounds, whichever is less, in any calendar year after 1997; or

(C) more than 800,000 separative work units contained in low-enriched uranium transferred under this subsection in any calendar year.

(d) INVENTORY SALES.—(1) In addition to the transfers authorized under subsections (c) and (e), the Secretary may, from time to time, sell natural and low-enriched uranium (including low-enriched uranium derived from highly enriched uranium) from the Department of Energy's stockpile.

(2) Except as provided in subsections (b), (c), and (e), no sale or transfer of natural or low-enriched uranium shall be made unless—

(A) the President determines that the material is not necessary for national security needs,

(B) the Secretary determines that the sale of the material will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry, taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement, and

(C) the price paid to the Secretary will not be less than the fair market value of the material.

(e) GOVERNMENT TRANSFERS.—Notwithstanding subsection (d)(2), the Secretary may transfer or sell enriched uranium—

(1) to a Federal agency if the material is transferred for the use of the receiving agency without any resale or transfer to another entity and the material does not meet commercial specifications;

(2) to any person for national security purposes, as determined by the Secretary; or

(3) to any State or local agency or nonprofit, charitable, or educational institution for use other than the generation of electricity for commercial use.

(f) SAVINGS PROVISION.—Nothing in this subchapter shall be read to modify the terms of the Russian HEU Agreement.

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**SEC. 3116. AMENDMENTS TO THE ATOMIC ENERGY ACT.**

(a) REPEAL.—(1) Chapters 22 through 26 of the Atomic Energy Act of 1954 (42 U.S.C. 2297–2297e–7) are repealed as of the privatization date. * * *

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## (6) Establishment of the Enrichment Oversight Committee

**Executive Order 13085, May 26, 1998, 63 F.R. 29335, 42 U.S.C. 2297h note** [1]

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to further the national security and other interests of the United States with regard to uranium enrichment and related businesses after the privatization of the United States Enrichment Corporation (USEC), it is ordered as follows:

**Section 1.** *Establishment.* There is hereby established as Enrichment Oversight Committee (EOC).

**Sec. 2.** *Objectives.* the EOC shall monitor and coordinate United States Government efforts with respect to the privatized USEC and any successor entities involved in uranium enrichment and related businesses in furtherance of the following objectives:

(a) The full implementation of the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium (HEU) Extracted from Nuclear Weapons, dated February 18, 1993 ("HEU Agreement"), and related contracts and agreements by the USEC as executive agent or by any other executive agents;

(b) The application of statutory, regulatory, and contractual restrictions on foreign ownership, control, or influence in the USEC, any successor entities, and any other executive agents;

(c) The development and implementation of United States Government policy regarding uranium enrichment and related technologies, processes, and data; and

(d) The collection and dissemination of information relevant to any of the foregoing on an ongoing basis, including from the Central Intelligence Agency and the Federal Bureau of Investigation.

**Sec. 3.** *Organization.* (a) The EOC shall be Chaired by a senior official from the National Security Council (NSC). The Chair shall coordinate the carrying out of the purposes and policy objectives of this order. The EOC shall meet as often as appropriate, but at least quarterly, and shall submit reports to the Assistant to the President for National Security Affairs semiannually, or more frequently as appropriate. The EOC shall prepare annually the report for the President's transmittal to the Congress pursuant to section 3112 of the USEC Privatization Act, Public Law 104–134, title III, 3112(b)(1), 110 Stat. 1321–344, 1321–346 (1996).

(b) The EOC shall consist of representatives from the Departments of State, the Treasury, Defense, Justice, Commerce, Energy,

[1] See also Executive Order 13159 of June 21, 2000 (65 F.R. 39279; June 26, 2000), relating to "Blocking property of the Government of the Russian Federation relating to the disposition of highly enriched uranium extracted from nuclear weapons", in *Legislation on Foreign Relations Through 2008*, vol. III.

and the Office of Management and Budget, the NSC, the National Economic Council, the Council of Economic Advisers, and the Intelligence Community. The EOC shall formulate internal guidelines for its operations, including guidelines for convening meetings.

(c) The EOC shall coordinate sharing of information and provide direction, while operational responsibilities resulting from the EOC's oversight activities will rest with EOC member agencies.

(d) At the request of the EOC, appropriate agencies, including the Department of Energy, shall provide day-to-day support for the EOC.

**Sec. 4.** *HEU Agreement, Oversight.* The EOC shall form an HEU Agreement Oversight Subcommittee (the "Subcommittee") in order to continue coordination of the implementation of the HEU Agreement and related contracts and agreements, monitor actions taken by the executive agent, and make recommendations regarding steps designed to facilitate full implementation of the HEU Agreement, including changes with respect to the executive agent. The Subcommittee shall be chaired by a senior official from the NSC and shall include representatives of the Departments of State, Defense, Justice, Commerce, and Energy, and the Office of Management and Budget, the National Economic Council, the Intelligence community, and, as appropriate, the United States Trade Representative, and the Council of Economic Advisers. The Subcommittee shall meet as appropriate to review the implementation of the HEU Agreement and consider steps to facilitate full implementation of that Agreement. In particular, the Subcommittee shall:

(a) have access to all information concerning implementation of the HEU Agreement and related contracts and agreements;

(b) monitor negotiations between the executive agent or agents and Russian authorities on implementation of the HEU Agreement, including the proposals of both sides on delivery schedules and on price;

(c) monitor sales of the natural uranium component of low-enriched uranium derived from Russian HEU pursuant to applicable law;

(d) establish procedures for designating alternative executive agents to implement the HEU Agreement;

(e) coordinate policies and procedures regarding the full implementation of the HEU purchase agreement and related contracts and agreements, consistent with applicable law; and

(f) coordinate the position of the United States Government on any issues that arise in the implementation of the Memorandum of Agreement with the USEC for the USEC to serve as the United States Government Executive Agent under the HEU Agreement.

**Sec. 5.** *Foreign Ownership, Control, or Influence (FOCI).* The EOC shall collect information and monitor issues relating to foreign ownership, control, or influence of the USEC or any successor entities. Specifically, the EOC shall:

(a) monitor the application and enforcement of the FOCI requirements of the National Industrial Security Program established by Executive Order 12829 with respect to the USEC and

any successor entities (see National Industrial Security Program Operating Manual, Department of Defense 2–3 (Oct. 1994));

(b) monitor and review reports and submissions relating to FOCI issues made by the USEC or any successor entity to the Nuclear Regulatory Commission (NRC) under the Atomic Energy Act of 1954, 42 U.S.C. 2011 *et seq.* (1994), and the USEC Privatization Act, Public Law 104–134, title III, 110 Stat. 1321–335 *et seq.* (1996);

(c) ensure coordination with the Intelligence Community of the collection and analysis of intelligence and ensure coordination of intelligence with other information related to FOCI issues; and

(d) ensure coordination with the Committee on Foreign Investment in the United States.

**Sec. 6.** *Domestic Enrichment Services.* The EOC shall collect and analyze information related to the maintenance of domestic uranium mining, enrichment, and conversion industries, provided that such activities shall be undertaken in a manner that provides appropriate protection for such information. In particular, the EOC shall:

(a) collect and review all public filings made by or with respect to the USEC or any successor entities with the Securities and Exchange Commission;

(b) collect information from all available sources necessary for the preparation of the annual report to the Congress required by section 3112 of the USEC Privatization Act, as noted in section 3(a) of this order, including information relating to plans by the USEC or any successor entities to expand or contract materially the enrichment of uranium-using gaseous diffusion technology;

(c) collect information relating to the development and implementation of atomic vapor laser isotope separation technology;

(d) to the extent permitted by law, and as necessary to fulfill the EOC's oversight functions, collect proprietary information from the USEC, or any successor entities, provide that the collection of such information shall be undertaken so as to minimize disruption to the normal functioning of the private corporation. For example, such information would include the USEC's financial statements prepared in accordance with standards applicable to public registrants and the executive summary of the USEC's strategic plan as shared with its Board of directors, as well as timely information on its unit production costs, capacity utilization rates, average pricing and sales for the current year and for new contracts, employment levels, overseas activities, and research and development initiatives. Such information shall be collected on an annual basis, with quarterly updates as appropriate; and

(e) coordinate with relevant agencies in monitoring the levels of natural and enriched uranium and enrichment services imported into the United States.

**Sec. 7.** *Coordination with the Nuclear Regulatory Commission.* Upon notification by the NRC that it seeks the views of other agencies of the executive branch regarding determinations necessary for

the issuance, reissuance, or renewal of a certificate of compliance or license to the privatized USEC, the EOC shall convey the relevant views of these other agencies of the executive branch, including whether the applicant's performance as the United States agent for the HEU Agreement is acceptable, on a schedule consistent with the NRC's need for timely action on such regulatory decisions.

## (7) EURATOM Cooperation Act of 1958, as amended

**Public Law 85–846 [S. 4273], 72 Stat. 1084, approved August 28, 1958; as amended by Public Law 87–206, 75 Stat. 479, approved September 6, 1961; Public Law 88–394, 78 Stat. 376, approved August 1, 1964; Public Law 90–190, 81 Stat. 578, approved December 14, 1967; and Public Law 93–88, 87 Stat. 296, approved August 14, 1973**

AN ACT To provide for cooperation with the European Atomic Energy Community.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "EURATOM Cooperation Act of 1958".

**Sec. 2.**[1] As used in this Act—

(a) "The Community" means the European Atomic Energy Community (EURATOM).

(b) The "Commission" means the Atomic Energy Commission, as established by the Atomic Energy Act of 1954, as amended.

(c) "Joint program" means the cooperative program established by the Community and the United States and carried out in accordance with the provisions of an agreement for cooperation entered into pursuant to the provisions of section 123 of the Atomic Energy Act of 1954, as amended, to bring into operation in the territory of the members of the Community powerplants using nuclear reactors of types selected by the Commission and the Community, having as a goal a total installed capacity of approximately one million kilowatts of electricity by December 31, 1963, except that two reactors may be selected to be in operation by December 31, 1965.

(d) All other terms used in this Act shall have the same meaning as terms described in section 11 of the Atomic Energy Act of 1954, as amended.

**Sec. 3.**[2] There is hereby authorized to be appropriated to the Commission, in accordance with the provisions of section 261(a)(2) of the Atomic Energy Act of 1954, as amended, the sum of $3,000,000[3] as an initial authorization for fiscal year 1959 for use in a cooperative program of research and development in connection with the types of reactors selected by the Commission and the Community under the joint program. The Commission may enter into contracts for such periods as it deems necessary, but in no event to exceed five years, for the purpose of conducting the research and development program authorized by this section: *Provided,* That the Community authorizes an equivalent amount for use in the cooperative program of research and development.

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[1] 42 U.S.C. 2291.

[2] 42 U.S.C. 2292.

[3] Sec. 109 of Public Law 86–50 (73 Stat. 84) authorized appropriation of an additional $7,000,000; sec. 109 of Public Law 87–701 (76 Stat. 602) authorized appropriation of an additional $5,000,000; sec. 103 of Public Law 88–72 (77 Stat. 86) authorized appropriation of an additional $7,500,000; and sec. 101(a) of Public Law 88–332 (78 Stat. 227) authorized appropriation of an additional $3,000,000.

**Sec. 4.**[4] The Commission is authorized, within limits of amounts which may hereafter be authorized to be appropriated in accordance with the provisions of section 261(a)(2) of the Atomic Energy Act of 1954, as amended, to make guarantee contracts which shall in the aggregate not exceed a total contingent liability of $90,000,000 designed to assure that the charges to an operator of a reactor constructed under the joint program for fabricating, processing, and transporting fuel will be no greater than would result under the fuel fabricating and fuel life guarantees which the Commission shall establish for such reactor. Within the limits of such amounts, the Commission is authorized to make contracts under this section, without regard to the provisions of sections 3679 and 3709 of the Revised Statutes, as amended, for such period of time as it determines to be necessary: *Provided, however,* That no such contracts may extend for a period longer than that necessary to cover fuel loaded into a reactor constructed under the joint program during the first ten years of the reactor operation or prior to December 31, 1973 (or December 31, 1975, for not more than two reactors selected under section 2(c)), whichever is earlier. In establishing criteria for the selection of projects and in entering into such guarantee contracts, the Commission shall be guided by, but not limited to, the following principles:

(a) The Commission shall encourage a strong and competitive atomic equipment manufacturing industry in the United States designed to provide diversified sources of supply for reactor parts and reactor fuel elements under the joint program;

(b) The guarantee shall be consistent with the provisions of this Act and of Attachment A to the Memorandum of Understanding between the Government of the United States and the Community, signed in Brussels on May 29, 1958, and in Washington, District of Columbia, on June 12, 1958, and transmitted to Congress on June 23, 1958;[5]

(c)[6] The Commission shall establish and publish criteria for computing the maximum fuel element charge and minimum fuel element life to be guaranteed by the manufacturer as a basis for inviting and evaluating proposals.

(d) The guarantee by the manufacturer shall be as favorable as any other guarantee offered by the manufacturer for any comparable fuel element within a reasonable time period; and

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[4] Formerly at 42 U.S.C. 2293, now omitted. The U.S. Code no longer includes sec. 4 as it pertained to contracts that expired no later than December 31, 1975.

[5] Agreement Relating to Programs for Peaceful Applications of Atomic Energy. Signed at Brussels, May 29, 1958, and at Washington, June 18, 1958. Entered into force, August 27, 1958. 9 UST 1116; TIAS 4091; 335 UNTS 161.

The Senate approved the 1958 agreement by Senate Concurrent Resolution 116, 85th Congress, 2d session, adopted August 23, 1958; and extended annually from 1980 through early 1996, most recently by Executive Order 12955 (60 F.R. 13365; March 10, 1995; 42 U.S.C. 2155 note).

The requirement for extension was obviated when a new Agreement for Cooperation in the Peaceful Uses of Nuclear Energy Between the United States of America and the European Atomic Energy Community (EURATOM) was successfully negotiated between the two parties in 1995. The new agreement was ordered executed by Presidential Determination No. 96–4 of November 1, 1995 (60 F.R. 56931; November 13, 1995), signed in Brussels, November 7, 1995 and March 29, 1996, and entered into force on April 12, 1996.

[6] Sec. 18 of Public Law 87–206 (75 Stat. 479) amended and restated sec. 4(c). Prior to amendment it read: "The Commission shall establish and publish minimum levels of fuel element cost and life to be guaranteed by the manufacturer as a basis for inviting and evaluating proposals.".

(e) The Commission shall obtain a royalty-free, nonexclusive, irrevocable license for governmental purposes to any patents on inventions or discoveries made or conceived by the manufacturer in the course of development or fabrication of fuel elements during the period covered by the Commission's guarantee.

**Sec. 5.**[7] Pursuant to the provisions of section 54 of the Atomic Energy Act of 1954, as amended, there is hereby authorized for sale or lease to the Community—

an amount of contained uranium 235 which does not exceed that necessary to support the fuel cycle of power reactors located within the Community having a total installed capacity of thirty-five thousand megawatts of electric energy, together with twenty-five thousand kilograms of contained uranium 235 for other purposes;[8]

one thousand five hundred kilograms of plutonium; and thirty kilograms of uranium 233;

in accordance with the provisions of an agreement or agreements for cooperation between the Government of the United States and the Community entered into pursuant to the provisions of section 123 of the Atomic Energy Act of 1954, as amended: *Provided,* That the Government of the United States obtains the equivalent of a first lien of any such material sold to the Community for which payment is not made in full at the time of transfer. The Commission may enter into contracts to provide, after December 31, 1968, for the producing or enriching of all, or part of, the above-mentioned contained uranium 235 pursuant to the provisions of subsection 161 v. (B) of said Act, as amended in lieu of sale or lease thereof.

**Sec. 6.**[9] (a) The Atomic Energy Commission is authorized to purchase or otherwise acquire from the Community special nuclear material or any interest therein from reactors constructed under the joint program in accordance with the terms of an agreement for cooperation entered into pursuant to the provisions of section 123 of the Atomic Energy Act of 1954, as amended: *Provided,* That neither plutonium nor uranium 233 nor any interest therein shall be acquired under this section in excess of the total quantities authorized by law. The Commission is hereby authorized to acquire from the Community pursuant to this section up to four thousand one hundred kilograms of plutonium for use only for peaceful purposes.

(b) Any contract made under the provisions of this section to acquire plutonium or any interest therein may be at such prices and for such period of time as the Commission may deem necessary:

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[7] 42 U.S.C. 2294. Sec. 13 of Public Law 90–190 (81 Stat. 575) amended and restated sec. 5, which formerly read as follows, as amended previously by sec. 19 of Public Law 87–206 (75 Stat. 479), and sec. 5 of Public Law 88–394 (78 Stat. 376):

"**Sec. 5.** Pursuant to the provisions of section 54 of the Atomic Energy Act of 1954, as amended, there is hereby authorized for sale or lease to the Community:

"Seventy thousand kilograms of contained uranium 235

"Five hundred kilograms of plutonium

"Thirty kilograms of uranium 233

"in accordance with the provisions of an agreement or agreements for cooperation between the Government of the United States and the Community entered into pursuant to the provisions of section 123 of the Atomic Energy Act of 1954 as amended: *Provided,* That the Government of the United States obtains the equivalent of a first lien of any such material sold to the Community for which payment is not made in full at the time of transfer.".

[8] Public Law 93–88 (87 Stat. 296), amended this paragraph. Previously, it read "two hundred fifteen thousand kilograms of contained uranium 235;".

[9] 42 U.S.C. 2295.

*Provided,* That with respect to plutonium produced in any reactor constructed under the joint program, no such contract shall be for a period greater than ten years of operation of such reactors or December 31, 1973 (or December 31, 1975, for not more than two reactors selected under section 2(c)), whichever is earlier: *And provided further,* That no such contract shall provide for compensation or the payment of a purchase price in excess of the Commission's established price in effect at the time of delivery to the Commission for such material as fuel in a nuclear reactor.

(c) Any contract made under the provisions of this section to acquire uranium enriched in the isotope uranium 235 may be at such price and for such period of time as the Commission may deem necessary: *Provided,* That no such contract shall be for a period of time extending beyond the terminal date of the agreement for cooperation with the Community or provide for the acquisition of uranium enriched in the isotope U–235 in excess of the quantities of such material that have been distributed to the Community by the Commission less the quantity consumed in the nuclear reactors involved in the joint program: *And provided further,* That no such contract shall provide for compensation or the payment of a purchase price in excess of the Atomic Energy Commission's established charges for such material in effect at the time delivery is made to the Commission.

(d) Any contract made under this section for the purchase of special nuclear material or any interest therein may be made without regard to the provisions of section 3679 of the Revised Statutes, as amended.

(e) Any contract made under this section may be made without regard to section 3709 of the Revised Statutes, as amended, upon certification by the Commission that such action is necessary in the interest of the common defense and security, or upon a showing by the Commission that advertising is not reasonably practicable.

**Sec. 7.**[10] The Government of the United States of America shall not be liable for any damages or third party liability arising out of or resulting from the joint program: *Provided however,* That nothing in this section shall deprive any person of any rights under section 170 of the Atomic Energy Act of 1954, as amended. *And provided further,* That nothing in this section shall apply to arrangements made by the Commission under a research and development program authorized in section 3.[11] The Government of the United States shall take such steps as may be necessary, including appropriate disclaimer or indemnity arrangements, in order to carry out the provisions of this section.[12]

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[10] 42 U.S.C. 2296.

[11] Public Law 87–206 (75 Stat. 475) added this proviso.

[12] Sec. 903(b) of the Energy Policy Act of 1992 (Public Law 102–486; 106 Stat. 2944) provided the following:

"(b) REPORT TO CONGRESS.—

"(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Chairman of the Nuclear Regulatory Commission, after consulting with other relevant agencies, shall submit to the Congress a report detailing the current disposition of previous United States exports of highly enriched uranium, including—

"(A) their location;

"(B) whether they are irradiated;

"(C) whether they have been used for the purpose stated in their export license; and

Continued

"(D) whether they have been used for an alternative purpose and, if so, whether such alternative purpose has been explicitly approved by the Commission.

"(2) EXPORTS TO EURATOM.—To the maximum extent possible, the report required by paragraph (1) shall include—

"(A) exports of highly enriched uranium to EURATOM; and

"(B) subsequent retransfers of such material within EURATOM, without regard to the extent of United States control over such retransfers.".

## (8) Agreement for Nuclear Cooperation Between the United States and China [1]

**Public Law 99–183 [S.J. Res. 238], 99 Stat. 1174, approved December 16, 1985**

JOINT RESOLUTION Relating to the approval and implementation of the proposed agreement for nuclear cooperation between the United States and the People's Republic of China.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a)(1) the Congress does favor the Agreement for Cooperation Between the Government of the United States of America and the Government of the People's Republic of China Concerning Peaceful Uses of Nuclear Energy, done on July 23, 1985 (hereafter in this joint resolution referred to as the "Agreement").

(2) Notwithstanding section 123 of the Atomic Energy Act of 1954, the Agreement becomes effective in accordance with the provisions of this joint resolution and other applicable provisions of law.

(b) Notwithstanding any other provision of law or any international agreement, no license may be issued for export to the People's Republic of China of any nuclear material, facilities, or components subject to the Agreement, and no approval for the transfer or retransfer to the People's Republic if China of any nuclear material, facilities, or components subject to the Agreement shall be given—

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[1] Sec. 3137 of Public Law 104–201 (110 Stat. 2831) provided the following:

**"SEC. 3137. PROHIBITION ON FUNDING NUCLEAR WEAPONS ACTIVITIES WITH PEOPLE'S REPUBLIC OF CHINA.**

"(a) FUNDING PROHIBITION.—No funds authorized to be appropriated or otherwise available to the Department of Energy for fiscal year 1997 may be obligated or expended for any activity associated with the conduct of cooperative programs relating to nuclear weapons or nuclear weapons technology, including stockpile stewardship, safety, and use control, with the People's Republic of China.

"(b) REPORT.—(1) The Secretary of Energy shall prepare, in consultation with the Secretary of Defense, a report containing a description of all discussions and activities between the United States and the People's Republic of China regarding nuclear weapons matters that have occurred before the date of the enactment of this Act and that are planned to occur after such date. For each such discussion or activity, the report shall include—

"(A) the authority under which the discussion or activity took or will take place;

"(B) the subject of the discussion or activity;

"(C) participants or likely participants;

"(D) the source and amount of funds used or to be used to pay for the discussion or activity; and

"(E) a description of the actions taken or to be taken to ensure that no classified information or unclassified controlled information was or will be revealed, and a determination of whether classified information or unclassified controlled information was revealed in previous discussions.

"(2) The report shall be submitted to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives not later than January 15, 1997.".

See also sec. 1305—Report on Military Capabilities of People's Republic of China, sec. 1306—Presidential Report Regarding Weapons Proliferation and Policies of the People's Republic of China, and sec. 1307—United States-People's Republic of China Joint Defense Conversion Commission, in Public Law 104–201, beginning at page 625.

(1) until the expiration of a period of thirty days of continuous session of Congress after the President has certified to the Congress that—[2]

(A) the reciprocal arrangements made pursuant to Article 8 of the Agreement have been designed to be effective in ensuring that any nuclear material, facilities, or components provided under the Agreement shall be utilized solely for intended peaceful purposes as set forth in the Agreement;

(B) the Government of the People's Republic of China has provided additional information concerning its nuclear nonproliferation policies and that, based on this and all other information available to the United States Government, the People's Republic of China is not in violation of paragraph (2) of section 129 of the Atomic Energy Act of 1954; and

(C) the obligation to consider favorably a request to carry out activities described in Article 5(2) of the Agreement shall not prejudice the decision of the United States to approve or disapprove such a request; and

(2) until the President has submitted to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report detailing the history and current developments in the nonproliferation policies and practices of the People's Republic of China.

The report described in paragraph (2) shall be submitted in unclassified form with a classified addendum.

(c) Each proposed export pursuant to the Agreement shall be subject to United States laws and regulations in effect at the time of each such report.

(d) Nothing in the Agreement or this joint resolution may be construed as providing a precedent or other basis for the negotiation or renegotiation of any other agreement for nuclear cooperation.

(e) For purposes of subsection (b)—

(1) the continuity of a session of Congress is broken only by adjournment of the Congress sine die at the end of a Congress; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

[2] On January 12, 1998, the President made this certification (Presidential Determination No. 98–10; 63 F.R. 3447; January 23, 1998). That determination also included the certification required by sec. 902(a)(6)(B)(i) of Public Law 101–246.

## (9) International Atomic Energy Agency Participation Act of 1957, as amended

**Partial text of Public Law 85–177 [H.R. 8992], 71 Stat. 453, approved August 28, 1957; as amended by Public Law 85–795, 72 Stat. 959, approved August 28, 1958; Public Law 89–348, 79 Stat. 1310, approved November 8, 1965; Public Law 96–465 [H.R. 6790], 94 Stat. 2071 at 2161, approved October 17, 1980; Public Law 103–437 [U.S.C. Technical Amendments; H.R. 4777], 108 Stat. 4581, approved November 2, 1994; and Public Law 106–113 [H.R. 3194], 113 Stat. 1501, approved November 29, 1999**

AN ACT To provide for the appointment of representatives of the United States in the organs of the International Atomic Energy Agency, and to make other provisions with respect to the participation of the United States in that Agency, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "International Atomic Energy Agency Participation Act of 1957".

**Sec. 2.**[1] (a) The President, by and with the advice and consent of the Senate, shall appoint a representative and a deputy representative of the United States to the International Atomic Energy Agency (hereinafter referred to as the "Agency"), who shall hold office at the pleasure of the President. Such representative and deputy representative shall represent the United States on the Board of Governors of the Agency, may represent the United States at the General Conference, and may serve ex officio as United States representative on any organ of that Agency, and shall perform such other functions in connection with the participation of the United States in the Agency as the President may from time to time direct. The Representatives of the United States to the Vienna office of the United Nations shall also serve as representative of the United States to the Agency.[2]

(b) The President, by and with the advice and consent of the Senate, may appoint or designate from time to time to attend a specified session or specified sessions of the General Conference of the Agency a representative of the United States and such number of alternates as he may determine consistent with the rules of procedure of the General Conference.

(c) The President may also appoint or designate from time to time such other persons as he may deem necessary to represent the United States in the organs of the Agency. The President may designate any officer of the United States Government, whose appointment is subject to confirmation by the Senate, to act, without additional compensation, for temporary periods as the representative of the United States on the Board of Governors or to the General

[1] 22 U.S.C. 2021.

[2] Sec. 708(b) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536) added this sentence.

Conference of the Agency in the absence or disability of the representative and deputy representative appointed under section 2(a) or in lieu of such representatives in connection with a specified subject matter.

(d) All persons appointed or designated in pursuance of authority contained in this section shall receive compensation at rates determined by the President upon the basis of duties to be performed but not in excess of rates authorized by sections 401, 402, and 403 of the Foreign Service Act of 1980 by chiefs of mission, members of the Senior Foreign Service, and Foreign Service officers occupying positions of equivalent importance, except that no Member of the Senate or House of Representatives or officer of the United States who is designated under subsection (b) or subsection (c) of this section as a delegate or representative of the United States or as an alternate to attend any specified session or specified sessions of the General Conference shall be entitled to receive such compensation.[3] Any person who receives compensation pursuant to the provisions of this subsection may be granted allowances and benefits not to exceed those received under the Foreign Service Act of 1980 by chiefs of mission, members of the Senior Foreign Service and Foreign Service officers occupying positions of equivalent importance.[4]

**Sec. 3.**[5] The participation of the United States in the International Atomic Energy Agency shall be consistent with and in furtherance of the purposes of the Agency set forth in its statute and the policy concerning the development, use, and control of atomic energy set forth in the Atomic Energy Act of 1954, as amended. [The President shall, from time to time as occasion may require, but not less than once each year, make reports to the Congress on the activities of the International Atomic Energy Agency and on the participation of the United States therein.][6] In addition to any other requirements of law, the Department of State and the Atomic Energy Commission shall keep the Committees on Energy and Commerce and on Foreign Affairs of the House of Representatives and the Committees on Energy and Natural Resources and on Foreign Relations of the Senate,[7] as appropriate, currently informed

[3] Sec. 2206(a)(7) of Public Law 94–465 (94 Stat. 2161) added the references in this subsection to sections of the Foreign Service Act of 1980 and to the Senior Foreign Service, effective February 15, 1981. These replaced a reference to secs. 411 and 412 of the Foreign Service Act of 1946.

[4] Sec. 2206(a)(7) of Public Law 96–465 (94 Stat. 2161) added the references to the Foreign Service Act of 1980 and to the Senior Foreign Service, effective February 15, 1981.

[5] 22 U.S.C. 2022.

[6] Public Law 89–348 (79 Stat. 1310), sec. 1(20), amended Public Law 85–177 by repealing the requirement of a report to the Congress by the President not less than once each year on the activities of the International Atomic Energy Agency and on the participation of the United States therein. Sec. 1(20) of that Act did not, however, repeal the language of sec. 3 creating the report requirement.

[7] Sec. 9(b) of Public Law 103–437 (108 Stat. 4588) struck out "Joint Committee on Atomic Energy, the House Committee on Foreign Affairs, and the Senate Committee on Foreign Relations,", and inserted in lieu thereof "Committees on Energy and Commerce and on Foreign Affairs of the House of Representatives and the Committees on Energy and Natural Resources and on Foreign Relations of the Senate,". Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) subsequently provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives. Sec. 1(a)(4) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Energy and Commerce of the House of Representatives shall be treated as referring to the Committee on Commerce of the House of Representatives. Sec. 1(c)(1) of that Act (110 Stat. 187) further provided that any reference in any provision of law enacted before January 4, 1995 to the House Committee on Energy and Commerce shall be treated as referring

with respect to the activities of the Agency and the participation of the United States therein.

**Sec. 4.**[8] The representatives provided for in section 2 hereof, when representing the United States in the organs of the Agency, shall, at all times, act in accordance with the instructions of the President, and such representatives shall, in accordance with such instructions, cast any and all votes under the statute of the International Atomic Energy Agency.

**Sec. 5.**[9] There is hereby authorized to be appropriated annually to the Department of State, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for the payment by the United States of its share of the expenses of the International Atomic Energy Agency as apportioned by the Agency in accordance with paragraph (D) of article XIV of the statute of the Agency, and for all necessary salaries and expenses of the representatives provided for in section 2 hereof and of their appropriate staffs, including personal services without regard to the civil service laws and the Classification Act of 1949, as amended; travel expenses without regard to the Standardized Government Travel Regulations, as amended, the Travel Expense Act of 1949, as amended, and section 10 of the Act of March 3, 1933, as amended; salaries as authorized by the Foreign Service Act of 1980,[10] or as authorized by the Atomic Energy Act of 1954, as amended, and expenses and allowances of personnel and dependents as authorized by the Foreign Service Act of 1980;[10] services as authorized by sec. 15 of the Act of Aug. 2, 1946 (5 U.S.C. 55a);[11] translating and other services, by contract; hire of passenger motor vehicles and other local transportation; printing and binding without regard to section II of the Act of March 1, 1919 (44 U.S.C. 111); official functions and courtesies; such sums as may be necessary to defray the expenses of United States participation in the Preparatory Commission for the Agency, established pursuant to annex I of the statute of the Agency; and such other expenses as may be authorized by the Secretary of State.

**Sec. 6.**[12] (a)[13] Notwithstanding any other provision of law, Executive order or regulation, a Federal employee who, with the approval of the Federal agency, or the head of the department by which he is employed, leaves his position to enter the employ of the Agency shall not be considered for the purposes of the Civil Service Retirement Act, as amended, and the Federal Employees' Group

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to (1) the Committee on Agriculture in the case of a provision relating to inspection of seafood or seafood products; (2) the Committee on Banking and Financial Services in the case of a provision relating to bank capital markets activities or depository institution securities; or (3) the Committee on Transportation and Infrastructure in the case of a provision relating to railroads and railway labor issues.

[8] 22 U.S.C. 2023.

[9] 22 U.S.C. 2024.

[10] Sec. 2206(a)(7)(i) and (ii) of Public Law 96–465 (94 Stat. 2162) struck out "Foreign Service Act of 1946, as amended" and inserted in lieu thereof "Foreign Service Act of 1980" in the two places where reference to the 1946 Act appeared in sec. 5.

[11] Public Law 89–554 (80 Stat. 416) codified sec. 15 of the Act of August 2, 1946, as 5 U.S.C. 3109.

[12] 22 U.S.C. 2025.

[13] Sec. 7 of Public Law 85–795 (72 Stat. 959) repealed sec. 6(a), "except that it shall be considered to remain in effect with respect to any employee subject thereto who is serving as an employee of the International Atomic Energy Agency on the date of enactment of this Act and who does not make the election referred to in sec. 6 and for the purposes of any rights and benefits vested thereunder prior to such date.".

Life Insurance Act of 1954, as amended, as separated from his Federal position during such employment with the Agency but not to extend beyond the first three consecutive years of his entering the employ of the Agency: *Provided,* (1) That he shall pay to the Civil Service Commission[14] within ninety days from the date he is separated without prejudice from the Agency all necessary deductions and agency contributions for coverage under the Civil Service Retirement Act for the period of his employment by the Agency, and (2) That all deductions and agency contributions necessary for continued coverage under the Federal Employees' Group Life Insurance Act of 1954, as amended, shall be made during the term of his employment with the International Atomic Energy Agency. If such employee, within three years from the date of his employment with the Agency, and within ninety days from the date he is separated without prejudice from the Agency, applies to be restored to his Federal position, he shall within thirty days of such application be restored to such position or to a position of like seniority, status and pay.

(b) Notwithstanding any other provision of law, Executive order or regulation, any Presidential appointee or elected officer who leaves his position to enter, or who within ninety days after the termination of his position enters, the employ of the Agency, shall be entitled to the coverage and benefits of the Civil Service Retirement Act, as amended, and the Federal Employees' Group Life Insurance Act of 1954, as amended, but not beyond the earlier of either the termination of his employment with the Agency or the expiration of three years from the date he entered employment with the Agency: *Provided,* (1) That he shall pay to the Civil Service Commission[14] within ninety days from the date he is separated without prejudice from the Agency all necessary deductions and agency contributions for coverage under the Civil Service Retirement Act for the period of his employment by the agency and (2) That all deductions and agency contributions necessary for continued coverage under the Federal Employees' Group Life Insurance Act of 1954, as amended, shall be made during the term of his employment with the Agency.

(c) The President is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section and to protect the retirement, insurance and such other civil service rights and privileges as the President may find appropriate.

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**Sec. 8.**[15] In the event of an amendment to the Statute of the Agency being adopted in accordance with article XVIII–C of the Statute to which the Senate by formal vote shall refuse its advice and consent, upon notification by the Senate to the President of such refusal to advise and consent, all further authority under section[16] 2, 3, 4, and 5 of this Act, as amended, shall terminate: *Provided, however,* That the Secretary of State, under such regulations

[14] Sec. 102 of Reorganization Plan No. 2 of 1978 (43 F.R. 36067; August 15, 1978) transferred all functions vested by statute in the Civil Service Commission to the Director of the Office of Personnel Management.

[15] 22 U.S.C. 2026.

[16] Should read "sections".

as the President shall promulgate, shall have the necessary authority to complete the prompt and orderly settlement of obligations and commitments to the Agency already incurred and pay salaries, allowances, travel expenses, and other expenses required for a prompt and orderly termination of United States participation in the Agency: *And provided further,* That the representative and the deputy representative of the United States to the Agency, and such other officers or employees representing the United States in the Agency, under such regulations as the President shall promulgate, shall retain their authority under this Act for such time as may be necessary to complete the settlement of matters arising out of the United States participation in the Agency.

## y. Executive Orders Concerning International Atomic Energy Cooperation

### (1) Authorization for the Communication of Restricted Data by the Department of State

**Executive Order 11057, October 18, 1962, 27 F.R. 10289, 42 U.S.C. 2162 note**

By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act; 42 U.S.C. 2011 et seq.), and as President of the United States, it is ordered as follows:

The Department of State is hereby authorized to communicate, in accordance with the terms and conditions of any agreement for cooperation arranged pursuant to subsection 144b of the Act (42 U.S.C. 2164(b)), such Restricted Data and data removed from the Restricted Data category under subsection 142d of the Act (42 U.S.C. 2162(d)) as is determined

(i) by the President, pursuant to the provisions of the Act, or

(ii) by the Atomic Energy Commission[1] and the Department of Defense, jointly pursuant to the provisions of Executive Order No. 10841, as amended,

to be transmissible under the agreement for cooperation involved. Such communications shall be effected through mechanisms established by the Department of State in accordance with the terms and conditions of the agreement for cooperation involved: *Provided,* That no such communication shall be made by the Department of State until the proposed communication has been authorized either in accordance with procedures, adopted by the Atomic Energy Commission[1] and the Department of Defense and applicable to conduct of programs for cooperation by those agencies, or in accordance with procedures approved by the Atomic Energy Commission[1] and the Department of Defense and applicable to conduct of programs for cooperation by the Department of State.

[1] Sec. 4(a)(1) of Executive Order 12038 (43 F.R. 4957; February 7, 1978) transferred the functions of the Atomic Energy Commission under this Executive Order either to the Secretary of Energy or to the Nuclear Regulatory Commission consistent with the provisions related to such function transfers in the Energy Reorganization Act of 1974 (Public Law 93–438; 88 Stat. 1233).

## (2) Authorization for the Communication of Restricted Data by the Central Intelligence Agency

**Executive Order 10899, December 9, 1960, 25 F.R. 12729, 42 U.S.C. 2162 note**

By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act; 42 U.S.C. 2011 et seq.), and as President of the United States, it is ordered as follows:

The Central Intelligence Agency is hereby authorized to communicate for intelligence purposes, in accordance with the terms and conditions of any agreement for cooperation arranged pursuant to subsections 144a, b, or c of the Act (42 U.S.C. 2162 (a), (b), or (c)), such restricted data and data removed from the restricted data category under subsection 142d of the Act (42 U.S.C. 2162(d)) as is determined

(i) by the President, pursuant to the provisions of the Act, or

(ii) by the Atomic Energy Commission[1] and the Department of Defense, jointly pursuant to the provisions of Executive Order No. 10841,

to be transmissible under the agreement for cooperation involved. Such communications shall be effected through mechanisms established by the Central Intelligence Agency in accordance with the terms and conditions of the agreement for cooperation involved: *Provided,* That no such communication shall be made by the Central Intelligence Agency until the proposed communication has been authorized either in accordance with procedures adopted by the Atomic Energy Commission[1] and the Department of Defense and applicable to conduct of programs for cooperation by those agencies, or in accordance with procedures approved by the Atomic Energy Commission[1] and the Department of Defense and applicable to conduct of programs for cooperation by the Central Intelligence Agency.

[1] Sec. 4(a)(1) of Executive Order 12038 (43 F.R. 4957; February 7, 1978) transferred the functions of the Atomic Energy Commission under this Executive Order either to the Secretary of Energy or to the Nuclear Regulatory Commission consistent with the provisions related to such function transfers in the Energy Reorganization Act of 1974 (Public Law 93–438; 88 Stat. 1233).

## (3) Providing for the Carrying Out of Certain Provisions of the Atomic Energy Act of 1954, as amended, Relating to International Cooperation

**Executive Order 10841, September 30, 1959, 24 F.R. 7941, 42 U.S.C. 2153 note; as amended by Executive Order 10956, August 12, 1961, 26 F.R. 7315, 3 CFR 1959–63 Comp., page 482; and Executive Order 12608, September 9, 1987, 52 F.R. 34617**

By virtue of the authority vested in me by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), herein referred to as the Act, and section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

**Section 1.** Whenever the President, pursuant to section 123 of the Act, has approved and authorized the execution of a proposed agreement providing for cooperation pursuant to section 91c, 144a, 144b, or 144c of the Act (42 U.S.C. 2121(c), 2164(a), 2164(b), 2164(c)), such approval and authorization by the President shall constitute his authorization to cooperate to the extent provided for in the agreement and in the manner provided for in section 91c, 144a, 144b, or 144c, as pertinent. In respect of sections 91c, 144b, and 144c, authorizations by the President to cooperate shall be subject to the requirements of section 123d of the Act and shall also be subjected to appropriate determinations made pursuant to section 2 of this order.

**Sec. 2.** (a) The Secretary of Defense and the Secretary of Energy[1] are hereby designated and empowered to exercise jointly, after consultation with executive agencies as may be appropriate, the following described authority without the approval, ratification, or other action of the President:

(1) The authority vested in the President by section 91c of the Act to determine that the proposed cooperation and each proposed transfer arrangement referred to in that section will promote and will not constitute an unreasonable risk to the common defense and security.

(2) The authority vested in the President by section 144b of the Act to determine that the proposed cooperation and the proposed communication of Restricted Data referred to in that section will promote and will not constitute an unreasonable risk to the common defense and security: *Provided,* That each determination made under this paragraph shall be referred to the President and, unless disapproved by him, shall become effective fifteen days after such referral or at such later time as may be specified in the determination.[2]

(3) The authority vested in the President by section 144c of the Act to determine that the proposed cooperation and the

[1] Sec. 9 of Executive Order 12608 (52 F.R. 34617; September 14, 1987) struck out "Atomic Energy Commission" and inserted in lieu thereof "Secretary of Energy".

[2] Executive Order 10956 (26 F.R. 7315; August 12, 1961) added this provision.

communication of the proposed Restricted Data referred to in that section will promote and will not constitute an unreasonable risk to the common defense and security.

(b) Whenever the Secretary of Defense and the Secretary of Energy[1] are unable to agree upon a joint determination under the provisions of subsection (a) of this section, the recommendations of each of them, together with the recommendations of other agencies concerned, shall be referred to the President, and the determination shall be made by the President.

**Sec. 3.** This order shall not be construed as delegating the function vested in the President by section 91c of the Act of approving programs proposed under that section.

**Sec. 4.** (a) The functions of negotiating and entering into international agreements under the Act shall be performed by or under the authority of the Secretary of State.

(b) International cooperation under the Act shall be subject to the responsibilities of the Secretary of State with respect to the foreign policy of the United States pertinent thereto.

## 5. Arms Control and Nonproliferation Provisions in National Defense Authorization Acts

### a. Duncan Hunter National Defense Authorization Act for Fiscal Year 2009

**Partial text of Public Law 110–417 [S. 3001], 122 Stat. 4356, approved October 14, 2008**

AN ACT To authorize appropriations for fiscal year 2009 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; FINDINGS; SENSE OF CONGRESS.**

(a) SHORT TITLE.—This Act may be cited as the "Duncan Hunter National Defense Authorization Act for Fiscal Year 2009".

(b) * * *

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DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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### TITLE X—GENERAL PROVISIONS

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### Subtitle E—Studies and Reports

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**SEC. 1044. REPORT ON NUCLEAR WEAPONS.**

(a) FINDINGS.—Congress finds that—

(1) numerous nuclear weapons are held in the arsenals of various countries around the world;

(2) some of these weapons make attractive targets for theft and for use by terrorist organizations;

(3) the United States should identify, track, and monitor these weapons as a matter of national security;

(4) the United States should assess the security risks associated with existing stockpiles of nuclear weapons and should assess the risks of nuclear weapons being developed, acquired, or utilized by other countries, particularly rogue states, and by terrorists and other non-state actors; and

(5) the United States should work cooperatively with other countries to improve the security of nuclear weapons and to promote multilateral reductions in the numbers of nuclear weapons.

(b) REVIEW.—The President, in consultation with the Secretary of Defense, the Secretary of State, the Secretary of Energy, and the Director of National Intelligence, shall conduct a review of nuclear weapons world-wide that includes—

(1) an inventory of the nuclear arsenals of all countries that possess, or are believed to possess, nuclear weapons, which indicates, as accurately as possible, the nuclear weapons that are known, or are believed, to exist according to nationality, type, yield, and form of delivery, and an assessment of the methods that are currently employed to identify, track, and monitor nuclear weapons and their component materials;

(2) an assessment of the risks associated with the deployment, transfer, and storage of nuclear weapons deemed to be attractive to terrorists, rogue states, and other state or non-state actors on account of their size or portability, or on account of their accessibility due to the manner of their deployment or storage; and

(3) recommendations for—

(A) mechanisms and procedures to improve security and safeguards for the nuclear weapons deemed to be attractive to terrorists, rogue states, and other state or non-state actors;

(B) mechanisms and procedures to improve the ability of the United States to identify, track, and monitor the nuclear weapons deemed to be attractive to terrorists, rogue states, and other state or non-state actors;

(C) mechanisms and procedures for implementing transparent multilateral reductions in nuclear weapons arsenals; and

(D) methods for consolidating, dismantling, and disposing of the nuclear weapons in each country that possesses, or is believed to possess, nuclear weapons, including methods of monitoring and verifying consolidation, dismantlement, and disposal.

(c) REPORT.—

(1) REPORT REQUIRED.—Not later than one year after the date of the enactment of this Act, the President shall submit to Congress a report on the findings and recommendations of the review required under subsection (b).

(2) CLASSIFICATION OF REPORT.—-The report required under paragraph (1) shall be submitted in unclassified form, but it may be accompanied by a classified annex.

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## Subtitle F—Other Matters

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**SEC. 1062.[1] NOTIFICATION OF COMMITTEES ON ARMED SERVICES WITH RESPECT TO CERTAIN NONPROLIFERATION AND PROLIFERATION ACTIVITIES.**

(a) NOTIFICATION WITH RESPECT TO NONPROLIFERATION ACTIVITIES.—The Secretary of Defense, the Secretary of Energy, the Secretary of Commerce, the Secretary of State, and the Nuclear Regulatory Commission shall keep the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives informed with respect to—

(1) any activities undertaken by any such Secretary or the Commission to carry out the purposes and policies of the Secretaries and the Commission with respect to nonproliferation programs; and

(2) any other activities undertaken by any such Secretary or the Commission to prevent the proliferation of nuclear, chemical, or biological weapons or the means of delivery of such weapons.

(b) NOTIFICATION WITH RESPECT TO PROLIFERATION ACTIVITIES IN FOREIGN NATIONS.—

(1) IN GENERAL.—The Director of National Intelligence shall keep the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives fully and currently informed with respect to any activities of foreign nations that are significant with respect to the proliferation of nuclear, chemical, or biological weapons or the means of delivery of such weapons.

(2) FULLY AND CURRENTLY INFORMED DEFINED.—For purposes of paragraph (1), the term "fully and currently informed" means the transmittal of credible information with respect to an activity described in such paragraph not later than 60 days after becoming aware of the activity.

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## TITLE XII—MATTERS RELATING TO FOREIGN NATIONS

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### Subtitle C—Other Matters

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**SEC. 1233. REVIEW OF SECURITY RISKS OF PARTICIPATION BY DEFENSE CONTRACTORS IN CERTAIN SPACE ACTIVITIES OF THE PEOPLE'S REPUBLIC OF CHINA.**

(a) REVIEW REQUIRED.—The Secretary of Defense shall conduct a review to determine whether there are any security risks associated with participation by covered contractors in certain space activities of the People's Republic of China.

(b) MATTERS TO BE INCLUDED.—The review required under subsection (a) shall include, at a minimum, a review of the following:

[1] 50 U.S.C. 2370.

(1) Whether there have been any incidents with respect to which a determination has been made that an improper disclosure of covered information by a covered contractor has occurred during the five-year period ending on the date of the enactment of this Act.

(2) The increase, if any, in the number of covered contractors expected to occur during the 5-year period beginning on the date of the enactment of this Act.

(3) The extent to which the policies and procedures of the Department of Defense are sufficient to protect against the improper disclosure of covered information by a covered contractor during the 5-year period beginning on the date of the enactment of this Act.

(4) The Secretary's conclusions regarding awards of contracts by the Department of Defense to covered contractors after the date of the enactment of this Act.

(5) Any other matters that the Secretary determines to be appropriate to include in the review.

(c) COOPERATION FROM OTHER DEPARTMENTS AND AGENCIES.—The Secretary of State, the Director of National Intelligence, and the head of any other United States Government department or agency shall cooperate in a complete and timely manner to provide the Secretary of Defense with data and other information necessary for the Secretary of Defense to carry out the review required under subsection (a).

(d) REPORT.—

(1) IN GENERAL.—Not later than March 1, 2009, the Secretary of Defense shall submit to the congressional defense committees a report on the review required under subsection (a).

(2) FORM.—The report required under this subsection shall include a summary in unclassified form to the maximum extent practicable.

(e) DEFINITIONS.—In this section:

(1) CERTAIN SPACE ACTIVITIES OF THE PEOPLE'S REPUBLIC OF CHINA.—The term "certain space activities of the People's Republic of China" means—

(A) the development or manufacture of satellites for launch from the People's Republic of China; and

(B) the launch of satellites from the People's Republic of China.

(2) COVERED CONTRACTOR.—The term "covered contractor" means a contractor of the Department of Defense, and any subcontractor (at any tier) of the contractor, that—

(A) has access to covered information; and

(B) participates, or is part of a joint venture that participates, or whose parent, sister, subsidiary, or affiliate company participates, in certain space activities in the People's Republic of China.

(3) COVERED INFORMATION.—The term "covered information" means classified information and sensitive controlled unclassified information obtained under contracts (or subcontracts of such contracts) of the Department of Defense.

**SEC. 1234.[2] REPORT ON IRAN'S CAPABILITY TO PRODUCE NUCLEAR WEAPONS.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Director of National Intelligence shall submit to Congress a report on Iran's capability to produce nuclear weapons. The report required under this subsection may be submitted in classified form.

(b) MATTERS TO BE INCLUDED.—The report required under subsection (a) shall include the following:

(1) The locations, types, and number of centrifuges and other specialized equipment necessary for the enrichment of uranium and any plans to acquire, manufacture, and operate such equipment in the future.

(2) An estimate of the amount, if any, of highly enriched uranium and weapons grade plutonium acquired or produced to date, an estimate of the amount of weapons grade plutonium that is likely to be produced or acquired in the near- and midterms and the amount of highly enriched uranium that is likely to be produced or acquired in the near- and midterms, and the number of nuclear weapons that could be produced with such materials.

(3) A evaluation of the extent to which security and safeguards at any nuclear site prevent, slow, verify, or help monitor the enrichment of uranium or the reprocessing of plutonium into weapons-grade materials.

(4) A description of any weaponization activities, such as the research, design, development, or testing of nuclear weapons or weapons-related components.

(5) A description of any programs to construct, acquire, test, or improve methods to deliver nuclear weapons, including an assessment of the likely progress of such programs in the near- and mid-terms.

(6) A summary of assessments made by allies of the United States of Iran's nuclear weapons program and nuclear-capable delivery systems programs.

(c) NOTIFICATION.—The President shall notify Congress, in writing, within 15 days of determining that—

(1) Iran has resumed a nuclear weapons program;

(2) Iran has met or surpassed any major milestone in its nuclear weapons program; or

(3) Iran has undertaken to accelerate, decelerate, or cease the development of any significant element within its nuclear weapons program.

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# DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

## TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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[2] 50 U.S.C. 2367 note.

## Subtitle B—Program Authorizations, Restrictions, and Limitations

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**SEC. 3114.[3] ENHANCING NUCLEAR FORENSICS CAPABILITIES.**

(a) RESEARCH AND DEVELOPMENT PLAN FOR NUCLEAR FORENSICS AND ATTRIBUTION.—

(1) RESEARCH AND DEVELOPMENT.—The Secretary of Energy shall prepare and implement a research and development plan to improve nuclear forensics capabilities in the Department of Energy and at the national laboratories overseen by the Department of Energy. The plan shall focus on improving the technical capabilities required—

(A) to enable a robust and timely nuclear forensic response to a nuclear explosion or to the interdiction of nuclear material or a nuclear weapon anywhere in the world; and

(B) to develop an international database that can attribute nuclear material or a nuclear weapon to its source.

(2) REPORTS.—

(A) The Secretary of Energy shall submit to the congressional defense committees—

(i) not later than 6 months after the date of the enactment of this Act, a report on the contents of the research and development plan described in paragraph (1), and any legislative changes required to implement the plan; and

(ii) not later than 18 months after the date of the enactment of this Act, a report on the status of implementing the plan.

(B) The Secretary shall submit each report required by this subsection in unclassified form, but may include a classified annex with such report.

(b) ADDITIONAL INFORMATION IN THE REPORT ON NUCLEAR FORENSICS CAPABILITIES.—Section 3129(b) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 585) is amended— * * *

(c) PRESIDENTIAL REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to the appropriate committees of Congress a report on the involvement of senior-level executive branch leadership in nuclear terrorism preparedness exercises that include nuclear forensics analysis.

(2) APPROPRIATE COMMITTEES OF CONGRESS.—In this subsection, the term "appropriate committees of Congress" means—

(A) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Homeland Security of the House of Representatives; and

(B) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Homeland Security and Governmental Affairs of the Senate.

[3] 50 U.S.C. 2574.

**SEC. 3115. UTILIZATION OF CONTRIBUTIONS TO INTERNATIONAL NUCLEAR MATERIALS PROTECTION AND COOPERATION PROGRAM AND RUSSIAN PLUTONIUM DISPOSITION PROGRAM.**

Section 3114 of the National Defense Authorization Act forFiscal Year 2007 (50 U.S.C. 2301 note) is amended—* * *

**SEC. 3116. REVIEW OF AND REPORTS ON GLOBAL INITIATIVES FOR PROLIFERATION PREVENTION PROGRAM.**

(a) REVIEW OF PROGRAM.—

(1) IN GENERAL.—The Administrator for Nuclear Security shall conduct a review of the Global Initiatives for Proliferation Prevention program.

(2) REPORT REQUIRED.—Not later than October 1, 2009, the Administrator shall submit to the congressional defense committees a report setting forth the results of the review required under paragraph (1). The report shall include eachof the following:

(A) A description of the goals of the Global Initiatives for Proliferation Prevention program and the criteria for partnership projects under the program.

(B) Recommendations regarding the following:

(i) Whether to continue or bring to a close each of the partnership projects under the program in existence on the date of the enactment of this Act, and, if any such project is recommended to be continued, a description of how that project will meet the criteria under subparagraph (A).

(ii) Whether to enter into new partnership projects under the program with Russia or other countries of the former Soviet Union.

(iii) Whether to enter into new partnership projects under the program in countries other than countries of the former Soviet Union.

(C) A plan and criteria for completing partnership projects under the program.

(b) REPORT ON FUNDING FOR PROJECTS UNDER PROGRAM.—

(1) IN GENERAL.—The Administrator shall submit to the congressional defense committees a report on—

(A) the purposes for which amounts made available for the Global Initiatives for Proliferation Prevention program for fiscal year 2009 will be obligated or expended; and

(B) the amount to be obligated or expended for each partnership project under the program in fiscal year 2009.

(2) LIMITATION ON FUNDING BEFORE SUBMITTAL OF REPORT.—None of the amounts authorized to be appropriated for fiscal year 2009 by section 3101(a)(2) for defense nuclear nonproliferation activities and available for the Global Initiatives for Proliferation Prevention program may be obligated or expended until the date that is 30 days after the date on which the Administrator submits to the congressional defense committees the report required under paragraph (1).

**SEC. 3117. LIMITATION ON AVAILABILITY OF FUNDS FOR GLOBAL NUCLEAR ENERGY PARTNERSHIP.**

(a) LIMITATION.—Of the amounts authorized to be appropriated for fiscal year 2009 by section 3101(a)(2) for defense nuclear nonproliferation activities, not more than $3,000,000 may be used for projects that are specifically designed for the Global Nuclear Energy Partnership. Any amount so used may not be expended until 30 days after the date on which the Administrator of the National Nuclear Security Administration submits to Congress a report that describes in detail the full amount of funding that the Administrator plans to expend for any effort related to the Global Nuclear Energy Partnership.

(b) USE OF FUNDS.—Any amount made available pursuant to an authorization of appropriations under section 3101(a)(2) that is covered by the limitation under subsection (a) shall only be available for nonproliferation risk assessments relating to the Global Nuclear Energy Partnership and related work on export control reviews and determinations.

## b. National Defense Authorization Act for Fiscal Year 2008

**Partial text of Public Law 110–181 [H.R. 4986], 122 Stat. 3, approved January 28, 2008**

AN ACT To provide for the enactment of the National Defense Authorization Act for Fiscal Year 2008, as previously enrolled, with certain modifications to address the foreign sovereign immunities provisions of title 28, United States Code, with respect to the attachment of property in certain judgments against Iraq, the lapse of statutory authorities for the payment of bonuses, special pays, and similar benefits for members of the uniformed services, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TREATMENT OF EXPLANATORY STATEMENT.**

(a) SHORT TITLE.—This Act may be cited as the "National Defense Authorization Act for Fiscal Year 2008".

(b) * * *

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### DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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### TITLE XII—MATTERS RELATING TO FOREIGN NATIONS

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### Subtitle D—Other Authorities and Limitations

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**SEC. 1256. EXTENSION OF COUNTERPROLIFERATION PROGRAM REVIEW COMMITTEE.**

(a) MEMBERS.—Section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note) is amended * * *

(b)–(c) * * *

(d) SUBMISSION OF REPORT.—Section 1503 of the National Defense Authorization Act for Fiscal Year 1995 (22 U.S.C. 2751 note) is amended— * * *

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### DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

### TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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## Subtitle B—Program Authorizations, Restrictions, and Limitations

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**SEC. 3114. LIMITATION ON AVAILABILITY OF FUNDS FOR FISSILE MATERIALS DISPOSITION PROGRAM.**

(a) LIMITATION PENDING REPORT ON USE OF PRIOR FISCAL YEAR FUNDS.—No more than 75 percent of the fiscal year 2008 Fissile Materials Disposition program funds may be obligated for the Fissile Materials Disposition program until the Secretary of Energy, in consultation with the Administrator for Nuclear Security, submits to the congressional defense committees a report setting forth a plan for obligating and expending funds made available for that program in fiscal years before fiscal year 2008 that remain available for obligation or expenditure as of January 1, 2005, and for fiscal year 2008.

(b) AVAILABILITY OF UNUTILIZED FUNDS UNDER CERTIFICATION OF PARTIAL USE.—Any funds identified in the plan required in subsection (a) that are not planned to be obligated by the end of fiscal year 2009 shall also be available for any defense nuclear nonproliferation activities (other than the Fissile Materials Disposition program) for which amounts are authorized to be appropriated by section 3101(a)(2).

(c) FISCAL YEAR 2008 FISSILE MATERIALS DISPOSITION PROGRAM FUNDS DEFINED.—In this section, the term "fiscal year 2008 Fissile Materials Disposition program funds" means amounts authorized to be appropriated by section 3101(a)(2) and available for the Fissile Materials Disposition program.

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## Subtitle C—Other Matters

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**SEC. 3126. SENSE OF CONGRESS ON THE NUCLEAR NON-PROLIFERATION POLICY OF THE UNITED STATES AND THE RELIABLE REPLACEMENT WARHEAD PROGRAM.**

It is the sense of Congress that—

(1) the United States should maintain its commitment to Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (in this section referred to as the "Nuclear Non-Proliferation Treaty");

(2) the United States should initiate talks with Russia to reduce the number of nonstrategic nuclear weapons and further reduce the number of strategic nuclear weapons in the respective nuclear weapons stockpiles of the United States and Russia in a transparent and verifiable fashion and in a manner consistent with the security of the United States;

(3) the United States and other declared nuclear weapons state parties to the Nuclear Non-Proliferation Treaty, together with weapons states that are not parties to the Treaty, should work to reduce the total number of nuclear weapons in the respective stockpiles and related delivery systems of such states;

(4) the United States, Russia, and other states should work to negotiate, and then sign and ratify, a treaty setting forth a date for the cessation of the production of fissile material;

(5) the United States should sustain the science-based stockpile stewardship program, which provides the basis for certifying the United States nuclear deterrent and maintaining the moratorium on underground nuclear weapons testing;

(6) the United States should commit to dismantle as soon as possible all retired warheads or warheads that are planned to be retired from the United States nuclear weapons stockpile;

(7) the United States, along with the other declared nuclear weapons state parties to the Nuclear Non-Proliferation Treaty, should participate in transparent discussions regarding their nuclear weapons programs and plans, including plans for any new weapons or warheads, and how such programs and plans relate to their obligations as nuclear weapons state parties under the Treaty;

(8) the United States and the declared nuclear weapons state parties to the Nuclear Non-Proliferation Treaty should work to decrease reliance on, and the importance of, nuclear weapons; and

(9) the United States should formulate any decision on whether to manufacture or deploy a reliable replacement warhead within the broader context of the progress made by the United States toward achieving each of the goals described in paragraphs (1) through (8).

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## Subtitle D—Nuclear Terrorism Prevention

**SEC. 3131.[1] DEFINITIONS.**

In this subtitle:

(1) The term "Convention on the Physical Protection of Nuclear Material" means the Convention on the Physical Protection of Nuclear Material, signed at New York and Vienna March 3, 1980.

(2) The term "formula quantities of strategic special nuclear material" means uranium–235 (contained in uranium enriched to 20 percent or more in the U–235 isotope), uranium–233, or plutonium in any combination in a total quantity of 5,000 grams or more computed by the formula, grams = (grams contained U–235) + 2.5 (grams U–233 + grams plutonium), as set forth in the definitions of "formula quantity" and "strategic special nuclear material" in section 73.2 of title 10, Code of Federal Regulations.

(3) The term "Nuclear Non-Proliferation Treaty" means the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (21 UST 483).

[1] 22 U.S.C. 3244 note.

(4) The term "nuclear weapon" means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for the development of, a weapon, a weapon prototype, or a weapon test device.

**SEC. 3132.[1] SENSE OF CONGRESS ON THE PREVENTION OF NUCLEAR TERRORISM.**

It is the sense of Congress that—

(1) the President should make the prevention of a nuclear terrorist attack on the United States a high priority;

(2) the President should accelerate programs, requesting additional funding as appropriate, to prevent nuclear terrorism, including combating nuclear smuggling, securing and accounting for nuclear weapons, and eliminating, removing, or securing and accounting for formula quantities of strategic special nuclear material wherever such quantities may be;

(3) the United States, together with the international community, should take a comprehensive approach to reducing the danger of nuclear terrorism, including by making additional efforts to identify and eliminate terrorist groups that aim to acquire nuclear weapons, to ensure that nuclear weapons worldwide are secure and accounted for and that formula quantities of strategic special nuclear material worldwide are eliminated, removed, or secure and accounted for to a degree sufficient to defeat the threat that terrorists and criminals have shown they can pose, and to increase the ability to find and stop terrorist efforts to manufacture nuclear explosives or to transport nuclear explosives and materials anywhere in the world;

(4) within such a comprehensive approach, a high priority must be placed on ensuring that all nuclear weapons worldwide are secure and accounted for and that all formula quantities of strategic special nuclear material worldwide are eliminated, removed, or secure and accounted for; and

(5) the International Atomic Energy Agency should be funded appropriately to fulfill its role in coordinating international efforts to protect nuclear material and to combat nuclear smuggling.

**SEC. 3133.[1] MINIMUM SECURITY STANDARD FOR NUCLEAR WEAPONS AND FORMULA QUANTITIES OF STRATEGIC SPECIAL NUCLEAR MATERIAL.**

(a) POLICY.—It is the policy of the United States to work with the international community to take all possible steps to ensure that all nuclear weapons around the world are secure and accounted for and that all formula quantities of strategic special nuclear material are eliminated, removed, or secure and accounted for to a level sufficient to defeat the threats posed by terrorists and criminals.

(b) INTERNATIONAL NUCLEAR SECURITY STANDARD.—It is the sense of Congress that, in furtherance of the policy described in subsection (a), and consistent with the requirement for "appropriate effective" physical protection contained in United Nations Security Council Resolution 1540 (2004), as well as the Nuclear

Non-Proliferation Treaty and the Convention on the Physical Protection of Nuclear Material, the President, in consultation with relevant Federal departments and agencies, should seek the broadest possible international agreement on a global standard for nuclear security that—

(1) ensures that nuclear weapons and formula quantities of strategic special nuclear material are secure and accounted for to a sufficient level to defeat the threats posed by terrorists and criminals;

(2) takes into account the limitations of equipment and human performance; and

(3) includes steps to provide confidence that the needed measures have in fact been implemented.

(c) INTERNATIONAL EFFORTS.—It is the sense of Congress that, in furtherance of the policy described in subsection (a), the President, in consultation with relevant Federal departments and agencies, should—

(1) work with other countries and the International Atomic Energy Agency to assist as appropriate, and if necessary work to convince, the governments of any and all countries in possession of nuclear weapons or formula quantities of strategic special nuclear material to ensure that security is upgraded to meet the standard described in subsection (b) as rapidly as possible and in a manner that—

(A) accounts for the nature of the terrorist and criminal threat in each such country; and

(B) ensures that any measures to which the United States and any such country agree are sustained after United States and other international assistance ends;

(2) ensure that United States financial and technical assistance is available, as appropriate, to countries for which the provision of such assistance would accelerate the implementation of, or improve the effectiveness of, such security upgrades; and

(3) work with the governments of other countries to ensure that effective nuclear security rules, accompanied by effective regulation and enforcement, are put in place to govern all nuclear weapons and formula quantities of strategic special nuclear material around the world.

**SEC. 3134.[1] ANNUAL REPORT.**

(a) IN GENERAL.—Not later than September 1 of each year through 2012, the President, in consultation with relevant Federal departments and agencies, shall submit to Congress a report on the security of nuclear weapons and related equipment and formula quantities of strategic special nuclear material outside of the United States.

(b) ELEMENTS.—The report required under subsection (a) shall include the following:

(1) A section on the programs for the security and accounting of nuclear weapons and the elimination, removal, and security and accounting of formula quantities of strategic special nuclear material, established under section 3132(b) of the Ronald

W. Reagan National Defense Authorization Act for Fiscal Year 2005 (50 U.S.C. 2569(b)), which shall include the following:

(A) A survey of the facilities and sites worldwide that contain nuclear weapons or related equipment, or formula quantities of strategic special nuclear material.

(B) A list of such facilities and sites determined to be of the highest priority for security and accounting of nuclear weapons and related equipment, or the elimination, removal, or security and accounting of formula quantities of strategic special nuclear material, taking into account risk of theft from such facilities and sites, and organized by level of priority.

(C) A prioritized plan, including measurable milestones, metrics, estimated timetables, and estimated costs of implementation, on the following:

(i) The security and accounting of nuclear weapons and related equipment and the elimination, removal, or security and accounting of formula quantities of strategic special nuclear material at such facilities and sites worldwide.

(ii) Ensuring that security upgrades and accounting reforms implemented at such facilities and sites worldwide, using the financial and technical assistance of the United States, are effectively sustained after such assistance ends.

(iii) The role that international agencies and the international community have committed to play, together with a plan for securing international contributions.

(D) An assessment of the progress made in implementing the plan described in subparagraph (C), including a description of the efforts of foreign governments to secure and account for nuclear weapons and related equipment and to eliminate, remove, or secure and account for formula quantities of strategic special nuclear material.

(2) A section on efforts to establish and implement the international nuclear security standard described in section 3133(b) and related policies.

(c) FORM.—The report may be submitted in classified form but shall include a detailed unclassified summary.

## c. John Warner National Defense Authorization Act for Fiscal Year 2007

**Partial text of Public Law 109–364 [H.R. 5122], 120 Stat. 2083, approved October 17, 2006; as amended by Public Law 110–417 [Duncan Hunter National Defense Authorization Act for Fiscal Year 2009; S. 3001], 122 Stat. 4356, approved October 14, 2008**

AN ACT To authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; FINDINGS.**

(a) SHORT TITLE.—This Act may be cited as the "John Warner National Defense Authorization Act for Fiscal Year 2007".

(b) * * *

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## DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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## TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

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### Subtitle C—Chemical Demilitarization Program

**SEC. 921. SENSE OF CONGRESS ON COMPLETION OF DESTRUCTION OF UNITED STATES CHEMICAL WEAPONS STOCKPILE.**

(a) FINDINGS.—Congress makes the following findings:

(1) The Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, done at Paris on January 13, 1993 (commonly referred to as the "Chemical Weapons Convention"), requires that destruction of the entire United States chemical weapons stockpile be completed by no later than the extended deadline of April 29, 2012.

(2) On April 10, 2006, the Department of Defense notified Congress that the United States would not meet even the extended deadline under the Chemical Weapons Convention for destruction of the United States chemical weapons stockpile.

(3) Destroying existing chemical weapons is a homeland security imperative and an arms control priority and is required by United States law.

(4) The elimination and nonproliferation of chemical weapons of mass destruction is of utmost importance to the national security of the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States is committed to making every effort to safely dispose of its entire chemical weapons stockpile by the Chemical Weapons Convention extended deadline of April 29, 2012, or as soon thereafter as possible, and will carry out all of its other obligations under that Convention;

(2) to prevent further delays in completing the destruction of the United States chemical weapons stockpile, the Secretary of Defense should prepare a comprehensive schedule for the safe destruction of such stockpile and should annually submit that schedule (as currently in effect) to the congressional defense committees, either separately or as part of another required report, until such destruction is completed;

(3) the Secretary of Defense should make every effort to ensure adequate funding to complete the elimination of the United States chemical weapons stockpile in the shortest time possible, consistent with the requirement to protect public health, safety, and the environment; and

(4) when selecting a site for the treatment or disposal of neutralized chemical agent at a location remote from the location where the agent is stored, the Secretary of Defense should propose a credible process that seeks to gain the support of affected communities.

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## TITLE XII—MATTERS RELATING TO FOREIGN NATIONS

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### Subtitle B—Nonproliferation Matters and Countries of Concern

**SEC. 1211. NORTH KOREA.**

(a) COORDINATOR OF POLICY ON NORTH KOREA.—

(1) APPOINTMENT REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the President shall appoint a senior presidential coordinator of United States policy on North Korea.

(2) DESIGNATION.—The individual appointed under paragraph (1) may be known as the "North Korea Policy Coordinator" (in this subsection referred to as the "Coordinator)".

(3) DUTIES.—The Coordinator shall—

(A) conduct a full and complete interagency review of United States policy toward North Korea;

(B) consult with foreign governments, including the parties to the Six Party Talks on the denuclearization of the Korean peninsula; and

(C) provide policy direction and leadership for negotiations with North Korea relating to nuclear weapons, ballistic missiles, and other security matters.

(4) REPORT.—Not later than 90 days after the date of the appointment of an individual as Coordinator under paragraph (1), the Coordinator shall submit to the President and Congress an unclassified report, with a classified annex if necessary, on the actions undertaken under paragraph (3). The report shall set forth—

(A) the results of the review under paragraph (3)(A); and

(B) any other matter on North Korea that the Coordinator considers appropriate.

(5) TERMINATION.—The position under this subsection shall terminate no later than December 31, 2011.

(b) SEMIANNUAL REPORTS ON NUCLEAR AND MISSILE PROGRAMS OF NORTH KOREA.—

(1) REPORTS REQUIRED.—Not later than 90 days after the date of the enactment of this Act, and every 180 days thereafter for fiscal years 2007 and 2008, the President shall transmit to Congress an unclassified report, with a classified annex as appropriate, on the nuclear program and the missile program of North Korea.

(2) MATTERS TO BE INCLUDED.—Each report under paragraph (1) shall include the following:

(A) The most current national intelligence estimate on the nuclear program and the missile program of North Korea and, consistent with the protection of intelligence sources and methods, an unclassified summary of the key judgments in that estimate.

(B) The most current unclassified United States Government assessment, stated as a range if necessary, of—

(i) the number of nuclear weapons possessed by North Korea; and

(ii) the amount of nuclear material suitable for weapons use produced by North Korea by plutonium reprocessing and uranium enrichment.

(C) Any other matter relating to the nuclear program or missile program of North Korea that the President considers appropriate.

**SEC. 1212. REPORT ON PARTICIPATION OF MULTINATIONAL PARTNERS IN THE UNITED NATIONS COMMAND IN THE REPUBLIC OF KOREA.**

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in coordination with the Secretary of State, shall submit to the appropriate committees of Congress a report on participation of multinational partners in the United Nations Command in the Republic of Korea.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1)–(3) * * *

(4) An assessment of how the contribution of additional military forces by a member of the United Nations Command might affect that member's approach to facilitating a diplomatic resolution of the nuclear challenge posed by the Democratic People's Republic of Korea.

(c) FORM.—The report required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Armed Services and Foreign Relations of the Senate; and

(2) the Committees on Armed Services and International Relations of the House of Representatives.

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**SEC. 1214. SENSE OF CONGRESS ON UNITED STATES POLICY ON THE NUCLEAR PROGRAMS OF IRAN.**

Congress—

(1) endorses the policy of the United States to achieve a successful diplomatic outcome, in coordination with leading members of the international community, with respect to the threat posed by the efforts of the Iranian regime to acquire a capability to produce nuclear weapons;

(2) calls on Iran to—

(A) suspend fully and verifiably its enrichment and reprocessing activities, as required by the International Atomic Energy Agency (IAEA); and

(B) work with the international community to achieve a negotiated outcome to the concerns regarding its nuclear program;

(3) in the event Iran fails to comply with United Nations Security Council Resolution 1696 (July 31, 2006), urges the Security Council to work for the adoption of appropriate measures under Article 41 of Chapter VII of the Charter of the United Nations; and

(4) urges the President and the Secretary of State to keep Congress fully and currently informed regarding the progress of this vital diplomatic initiative.

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# DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

## TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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### Subtitle A—National Security Programs Authorizations

**SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2007 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security in the amount of $9,300,811,000, to be allocated as follows:

(1) * * *

(2) For defense nuclear nonproliferation activities, $1,701,426,000.

(3)–(4) * * *

(b) * * *

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**SEC. 3113. UTILIZATION OF CONTRIBUTIONS TO GLOBAL THREAT REDUCTION INITIATIVE.**

Section 3132 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2166; 50 U.S.C. 2569) is amended— * * *

**SEC. 3114.[1] UTILIZATION OF CONTRIBUTIONS TO INTERNATIONAL NUCLEAR MATERIALS PROTECTION AND COOPERATION PROGRAM AND RUSSIAN PLUTONIUM DISPOSITION PROGRAM.[2]**

(a) IN GENERAL.—The Secretary of Energy may, with the concurrence of the Secretary of State, enter into one or more agreements with any person (including a foreign government, international organization, or multinational entity) that the Secretary of Energy considers appropriate under which the person contributes funds for purposes of the International Nuclear Materials Protection and Cooperation program or Russian Plutonium Disposition program[2] of the National Nuclear Security Administration.

(b) RETENTION AND USE OF AMOUNTS.—Notwithstanding section 3302 of title 31, United States Code, the Secretary of Energy may retain and use amounts contributed under an agreement under subsection (a) for purposes of the International Nuclear Materials Protection and Cooperation program or Russian Plutonium Disposition program.[2] Amounts so contributed shall be retained in a separate fund established in the Treasury for such purposes and shall be available for use without further appropriation and without fiscal year limitation.

(c) RETURN OF AMOUNTS NOT USED WITHIN 5 YEARS.—If an amount contributed under an agreement under subsection (a) is not used under this section within 5 years after it was contributed, the Secretary of Energy shall return that amount to the person who contributed it.

(d) NOTICE TO CONGRESSIONAL DEFENSE COMMITTEES.—Not later than 30 days after the receipt of an amount contributed under subsection (a), the Secretary of Energy shall submit to the congressional defense committees a notice specifying the purpose and value of the contribution and identifying the person who contributed it. The Secretary may not use the amount until 15 days after the notice is submitted.

(e) ANNUAL REPORT.—Not later than October 31 of each year, the Secretary of Energy shall submit to the congressional defense committees a report on the receipt and use of amounts under this section during the preceding fiscal year. Each report for a fiscal year shall set forth—

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[1] 50 U.S.C. 2301 note.

[2] Sec. 3115(1) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4757) struck out "**SECOND LINE OF DEFENSE PROGRAM**" in the section catchline and inserted in lieu thereof "**INTERNATIONAL NUCLEAR MATERIALS PROTECTION AND COOPERATION PROGRAM AND RUSSIAN PLUTONIUM DISPOSITION PROGRAM**". Sec. 3115(2) struck out "Second Line of Defense program" in each place where it appeared in this section and inserted in lieu thereof "International Nuclear Materials Protection and Cooperation program or Russian Plutonium Disposition program".

(1) a statement of any amounts received under this section, including, for each such amount, the value of the contribution and the person who contributed it;

(2) a statement of any amounts used under this section, including, for each such amount, the purposes for which the amount was used; and

(3) a statement of the amounts retained but not used under this section, including, for each such amount, the purposes (if known) for which the Secretary intends to use the amount.

(f) EXPIRATION.—The authority to accept, retain, and use contributions under this section expires on December 31, 2015.[3]

[3] Sec. 3115(3) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4757) struck out "2013" and inserted in lieu thereof "2015".

## d. National Defense Authorization Act for Fiscal Year 2006

**Partial text of Public Law 109–163 [H.R. 1815], 119 Stat. 3136, approved January 6, 2006**

AN ACT To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 2006".

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## DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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## TITLE XII—MATTERS RELATING TO FOREIGN NATIONS

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### Subtitle B—Nonproliferation Matters and Countries of Concern

**SEC. 1211.[1] PROHIBITION ON PROCUREMENTS FROM COMMUNIST CHINESE MILITARY COMPANIES.**

(a) PROHIBITION.—The Secretary of Defense may not procure goods or services described in subsection (b), through a contract or any subcontract (at any tier) under a contract, from any Communist Chinese military company.

(b) GOODS AND SERVICES COVERED.—For purposes of subsection (a), the goods and services described in this subsection are goods and services on the munitions list of the International Trafficking in Arms Regulations, other than goods or services procured—

(1) in connection with a visit by a vessel or an aircraft of the United States Armed Forces to the People's Republic of China;

(2) for testing purposes; or

(3) for purposes of gathering intelligence.

(c) WAIVER AUTHORIZED.—The Secretary of Defense may waive the prohibition in subsection (a) if the Secretary determines such a waiver is necessary for national security purposes. The Secretary shall notify the congressional defense committees of each waiver made under this subsection.

(d) DEFINITIONS.—In this section:

[1] 10 U.S.C. 2302 note.

(1) The term "Communist Chinese military company" has the meaning provided that term by section 1237(b)(4) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (50 U.S.C. 1701 note).

(2) The term "munitions list of the International Trafficking in Arms Regulations" means the United States Munitions List contained in part 121 of subchapter M of title 22 of the Code of Federal Regulations.

**SEC. 1212. REPORT ON NONSTRATEGIC NUCLEAR WEAPONS.**

(a) REVIEW.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of State and the Secretary of Energy, conduct a review of United States and Russian nonstrategic nuclear weapons and determine whether it is in the national security interest of the United States—

(1) to reduce the number of United States and Russian nonstrategic nuclear weapons;

(2) to improve the security of United States and Russian nonstrategic nuclear weapons in storage and during transport;

(3) to identify and develop mechanisms and procedures to implement transparent reductions in nonstrategic nuclear weapons; and

(4) to identify and develop mechanisms and procedures to implement the transparent dismantlement of excess nonstrategic nuclear weapons.

(b) REPORT.—

(1) IN GENERAL.—The Secretary of Defense shall submit to the congressional defense committees a joint report, prepared in consultation with the Secretary of State and the Secretary of Energy, on the results of the review required under subsection (a). The report shall include a plan to implement, not later than October 1, 2006, actions determined as a result of the review to be in the United States national security interest.

(2) FORM.—The report required under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

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# DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

## TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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### Subtitle B—Other Matters

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**SEC. 3115. REPORT ON ASSISTANCE FOR A COMPREHENSIVE INVENTORY OF RUSSIAN NONSTRATEGIC NUCLEAR WEAPONS.**

(a) FINDINGS.—Congress finds that—

(1) there is an insufficient accounting for, and insufficient security of, the nonstrategic nuclear weapons of the Russian Federation; and

(2) because of the dangers posed by that insufficient accounting and security, it is in the national security interest of the United States to assist the Russian Federation in the conduct of a comprehensive inventory of its nonstrategic nuclear weapons.

(b) REPORT.—

(1) REPORT REQUIRED.—Not later than April 15, 2006, the Secretary of Energy shall submit to Congress a report containing—

(A) the Secretary's evaluation of past and current efforts by the United States to encourage or facilitate a proper accounting for and securing of the nonstrategic nuclear weapons of the Russian Federation; and

(B) the Secretary's recommendations regarding the actions by the United States that are most likely to lead to progress in improving the accounting for, and securing of, those weapons.

(2) CONSULTATION WITH SECRETARY OF DEFENSE.—The report under paragraph (1) shall be prepared in consultation with the Secretary of Defense.

(3) CLASSIFICATION OF REPORT.—The report under paragraph (1) shall be in unclassified form, but may be accompanied by a classified annex.

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## e. Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005

**Partial text of Public Law 108–375 [H.R. 4200], 118 Stat. 1811, approved October 28, 2004; as amended by Public Law 109–364 [John Warner National Defense Authorization Act for Fiscal Year 2007; H.R. 5122], 120 Stat. 2083, approved October 17, 2006**

AN ACT To authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005".

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## DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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## TITLE XII—MATTERS RELATING TO OTHER NATIONS

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### Subtitle B—Counterproliferation Matters

**SEC. 1211. DEFENSE INTERNATIONAL COUNTERPROLIFERATION PROGRAMS.**

(a) INTERNATIONAL SECURITY PROGRAM TO PREVENT UNAUTHORIZED TRANSFER AND TRANSPORTATION OF WMDS.—Subsection (b) of section 1424 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2333) is amended * * *

(b) INTERNATIONAL TRAINING PROGRAM TO DETER WMD PROLIFERATION.—Section 1504(e)(3)(A) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2918) is amended—* * *

**SEC. 1212.[1] POLICY AND SENSE OF CONGRESS ON NONPROLIFERATION OF BALLISTIC MISSILES.**

(a) FINDINGS.—Congress makes the following findings:

(1) Certain countries are seeking to acquire ballistic missiles and related technologies that could be used to attack the United States or place at risk United States interests, deployed members of the Armed Forces, and allies of the United States and other friendly foreign countries.

[1] 22 U.S.C. 2797 note.

(2) Certain countries continue to actively transfer or sell ballistic missile technologies in contravention of standards of behavior established by the United States and allies of the United States and other friendly foreign countries.

(3) The spread of ballistic missiles and related technologies worldwide has been slowed by a combination of national and international export controls, forward-looking diplomacy, and multilateral interdiction activities to restrict the development and transfer of such missiles and technologies.

(b) POLICY.—It is the policy of the United States to develop, support, and strengthen international accords and other cooperative efforts to curtail the proliferation of ballistic missiles and related technologies which could threaten the territory of the United States, allies of the United States and other friendly foreign countries, and deployed members of the Armed Forces of the United States with weapons of mass destruction.

(c) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should vigorously pursue foreign policy initiatives aimed at eliminating, reducing, or retarding the proliferation of ballistic missiles and related technologies; and

(2) the United States and the international community should continue to support and strengthen established international accords and other cooperative efforts, including United Nations Security Council Resolution 1540 (April 28, 2004) and the Missile Technology Control Regime, that are designed to eliminate, reduce, or retard the proliferation of ballistic missiles and related technologies.

**SEC. 1213. SENSE OF CONGRESS ON THE GLOBAL PARTNERSHIP AGAINST THE SPREAD OF WEAPONS OF MASS DESTRUCTION.**

(a) COMMENDATION OF PRESIDENT.—Congress commends the President for the steps taken at the G–8 summit at Sea Island, Georgia, on June 8–10, 2004—

(1) to demonstrate continued support for the Global Partnership against the Spread of Nuclear Weapons and Materials of Mass Destruction; and

(2) to expand the Partnership (A) by welcoming new members, and (B) by using the Partnership to coordinate nonproliferation projects in Libya, Iraq, and other countries.

(b) FUTURE ACTIONS.—It is the sense of Congress that the President should seek to—

(1) expand the membership of donor nations to the Global Partnership against the Spread of Nuclear Weapons and Materials of Mass Destruction;

(2) ensure that the Russian Federation remains the primary focus of the Partnership, but also seek to fund, through the Partnership, efforts in other countries that need assistance to secure or dismantle their own potentially vulnerable weapons or materials;

(3) develop for the Partnership clear program goals;

(4) develop for the Partnership transparent project prioritization and planning;

(5) develop for the Partnership project implementation milestones under periodic review;

(6) develop under the Partnership agreements between partners for project implementation; and

(7) give high priority and senior-level attention to resolving disagreements on site access and worker liability under the Partnership.

**SEC. 1214. REPORT ON COLLABORATIVE MEASURES TO REDUCE THE RISKS OF A LAUNCH OF RUSSIAN NUCLEAR WEAPONS.**

Not later than November 1, 2005, the Secretary of Defense shall submit to Congress a report on collaborative measures between the United States and the Russian Federation to reduce the risks of a launch of a nuclear-armed ballistic missile as a result of accident, misinformation, miscalculation, or unauthorized use. The report shall provide—

(1) a description and assessment of the collaborative measures that are currently in effect;

(2) a description and assessment of other collaborative measures that could be pursued in the future;

(3) an assessment of the potential contributions of such collaborative measures to the national security of the United States;

(4) an assessment of the effect of such collaborative measures on relations between the United States and the Russian Federation;

(5) a description of the obstacles and opportunities associated with pursuing such collaborative measures; and

(6) an assessment of the future of the Joint Data Exchange Center.

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## DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

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## TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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### Subtitle C—Proliferation Matters

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**SEC. 3132.[2] ACCELERATION OF REMOVAL OR SECURITY OF FISSILE MATERIALS, RADIOLOGICAL MATERIALS, AND RELATED EQUIPMENT AT VULNERABLE SITES WORLDWIDE.**

(a) SENSE OF CONGRESS.—(1) It is the sense of Congress that the security, including the rapid removal or secure storage, of high-risk, proliferation-attractive fissile materials, radiological materials, and related equipment at vulnerable sites worldwide should be a top priority among the activities to achieve the national security of the United States.

[2] 50 U.S.C. 2569.

(2) It is the sense of Congress that the President may establish in the Department of Energy a task force to be known as the Task Force on Nuclear Materials to carry out the program authorized by subsection (b).

(b) PROGRAM AUTHORIZED.—The Secretary of Energy may carry out a program to undertake an accelerated, comprehensive worldwide effort to mitigate the threats posed by high-risk, proliferation-attractive fissile materials, radiological materials, and related equipment located at sites potentially vulnerable to theft or diversion.

(c) PROGRAM ELEMENTS.—(1) Activities under the program under subsection (b) may include the following:

(A) Accelerated efforts to secure, remove, or eliminate proliferation-attractive fissile materials or radiological materials in research reactors, other reactors, and other facilities worldwide.

(B) Arrangements for the secure shipment of proliferation-attractive fissile materials, radiological materials, and related equipment to other countries willing to accept such materials and equipment, or to the United States if such countries cannot be identified, and the provision of secure storage or disposition of such materials and equipment following shipment.

(C) The transportation of proliferation-attractive fissile materials, radiological materials, and related equipment from sites identified as proliferation risks to secure facilities in other countries or in the United States.

(D) The processing and packaging of proliferation-attractive fissile materials, radiological materials, and related equipment in accordance with required standards for transport, storage, and disposition.

(E) The provision of interim security upgrades for vulnerable, proliferation-attractive fissile materials, radiological materials, and related equipment pending their removal from their current sites.

(F) The utilization of funds to upgrade security and accounting at sites where proliferation-attractive fissile materials or radiological materials will remain for an extended period of time in order to ensure that such materials are secure against plausible potential threats and will remain so in the future.

(G) The management of proliferation-attractive fissile materials, radiological materials, and related equipment at secure facilities.

(H) Actions to ensure that security, including security upgrades at sites and facilities for the storage or disposition of proliferation-attractive fissile materials, radiological materials, and related equipment, continues to function as intended.

(I) The provision of technical support to the International Atomic Energy Agency (IAEA), other countries, and other entities to facilitate removal of, and security upgrades to facilities that contain, proliferation-attractive fissile materials, radiological materials, and related equipment worldwide.

(J) The development of alternative fuels and irradiation targets based on low-enriched uranium to convert research or

other reactors fueled by highly-enriched uranium to such alternative fuels, as well as the conversion of reactors and irradiation targets employing highly-enriched uranium to employment of such alternative fuels and targets.

(K) Accelerated actions for the blend down of highly-enriched uranium to low-enriched uranium.

(L) The provision of assistance in the closure and decommissioning of sites identified as presenting risks of proliferation of proliferation-attractive fissile materials, radiological materials, and related equipment.

(M) Programs to—

(i) assist in the placement of employees displaced as a result of actions pursuant to the program in enterprises not representing a proliferation threat; and

(ii) convert sites identified as presenting risks of proliferation regarding proliferation-attractive fissile materials, radiological materials, and related equipment to purposes not representing a proliferation threat to the extent necessary to eliminate the proliferation threat.

(2) The Secretary of Energy shall, in coordination with the Secretary of State, carry out the program in consultation with, and with the assistance of, appropriate departments, agencies, and other entities of the United States Government.

(3) The Secretary of Energy shall, with the concurrence of the Secretary of State, carry out activities under the program in collaboration with such foreign governments, non-governmental organizations, and other international entities as the Secretary of Energy considers appropriate for the program.

(d) REPORTS.—(1) Not later than March 15, 2005, the Secretary of Energy shall submit to Congress a classified interim report on the program under subsection (b).

(2) Not later than January 1, 2006, the Secretary shall submit to Congress a classified final report on the program under subsection (b) that includes the following:

(A) A survey by the Secretary of the facilities and sites worldwide that contain proliferation-attractive fissile materials, radiological materials, or related equipment.

(B) A list of sites determined by the Secretary to be of the highest priority, taking into account risk of theft from such sites, for removal or security of proliferation-attractive fissile materials, radiological materials, or related equipment, organized by level of priority.

(C) A plan, including activities under the program under this section, for the removal, security, or both of proliferation-attractive fissile materials, radiological materials, or related equipment at vulnerable facilities and sites worldwide, including measurable milestones, metrics, and estimated costs for the implementation of the plan.

(3) A summary of each report under this subsection shall also be submitted to Congress in unclassified form.

(e) FUNDING.—Amounts authorized to be appropriated to the Secretary of Energy for defense nuclear nonproliferation activities shall be available for purposes of the program under this section.

(f)[3] PARTICIPATION BY OTHER GOVERNMENTS AND ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary of Energy may, with the concurrence of the Secretary of State, enter into one or more agreements with any person (including a foreign government, international organization, or multinational entity) that the Secretary of Energy considers appropriate under which the person contributes funds for purposes of the programs described in paragraph (2).

(2) PROGRAMS COVERED.—The programs described in this paragraph are the following international programs within the Global Threat Reduction Initiative:

(A) The International Radiological Threat Reduction program.

(B) The Emerging Threats and Gap Materials program.

(C) The Reduced Enrichment for Research and Test Reactors program.

(D) The Russian Research Reactor Fuel Return program.

(E) The Global Research Reactor Security program.

(F) The Kazakhstan Spent Fuel program.

(3) RETENTION AND USE OF AMOUNTS.—Notwithstanding section 3302 of title 31, United States Code, the Secretary of Energy may retain and use amounts contributed under an agreement under paragraph (1) for purposes of the programs described in paragraph (2). Amounts so contributed shall be retained in a separate fund established in the Treasury for such purposes and shall be available for use without further appropriation and without fiscal year limitation.

(4) RETURN OF AMOUNTS NOT USED WITHIN 5 YEARS.—If an amount contributed under an agreement under paragraph (1) is not used under this subsection within 5 years after it was contributed, the Secretary of Energy shall return that amount to the person who contributed it.

(5) NOTICE TO CONGRESSIONAL DEFENSE COMMITTEES.—Not later than 30 days after the receipt of an amount contributed under paragraph (1), the Secretary of Energy shall submit to the congressional defense committees a notice specifying the purpose and value of the contribution and identifying the person who contributed it. The Secretary may not use the amount until 15 days after the notice is submitted.

(6) ANNUAL REPORT.—Not later than October 31 of each year, the Secretary of Energy shall submit to the congressional defense committees a report on the receipt and use of amounts under this subsection during the preceding fiscal year. Each report for a fiscal year shall set forth—

(A) a statement of any amounts received under this subsection, including, for each such amount, the value of the contribution and the person who contributed it;

(B) a statement of any amounts used under this subsection, including, for each such amount, the purposes for which the amount was used; and

[3] Sec 3113 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2504) added a new subsec. (f) and redesignated former subsec. (f) as subsec. (g).

(C) a statement of the amounts retained but not used under this subsection, including, for each such amount, the purposes (if known) for which the Secretary intends to use the amount.

(7) EXPIRATION.—The authority to accept, retain, and use contributions under this subsection expires on December 31, 2013.

(g)[3] DEFINITIONS.—In this section:

(1) The term "fissile materials" means plutonium, highly-enriched uranium, or other material capable of sustaining an explosive nuclear chain reaction, including irradiated items containing such materials if the radiation field from such items is not sufficient to prevent the theft or misuse of such items.

(2) The term "radiological materials" includes Americium-241, Californium-252, Cesium-137, Cobalt-60, Iridium-192, Plutonium-238, Radium-226, Strontium-90, Curium-244, and irradiated items containing such materials, or other materials designated by the Secretary of Energy for purposes of this paragraph.

(3) The term "related equipment" includes equipment useful for enrichment of uranium in the isotope 235 and for extraction of fissile materials from irradiated fuel rods and other equipment designated by the Secretary of Energy for purposes ofthis section.

(4) The term "highly-enriched uranium" means uranium enriched to or above 20 percent in the isotope 235.

(5) The term "low-enriched uranium" means uranium enriched below 20 percent in the isotope 235.

(6) The term "proliferation-attractive", in the case of fissile materials and radiological materials, means quantities and types of such materials that are determined by the Secretary of Energy to present a significant risk to the national security of the United States if diverted to a use relating to proliferation.

**SEC. 3133.[4] SILK ROAD INITIATIVE.**

(a) PROGRAM AUTHORIZED.—(1) The Secretary of Energy may carry out a program, to be known as the Silk Road Initiative, to promote non-weapons-related employment opportunities for scientists, engineers, and technicians formerly engaged in activities to develop and produce weapons of mass destruction in Silk Road nations. The program should—

(A) incorporate best practices under the Initiatives for Proliferation Prevention program; and

(B) facilitate commercial partnerships between private entities in the United States and scientists, engineers, and technicians in the Silk Road nations.

(2) Before implementing the program with respect to multiple Silk Road nations, the Secretary of Energy shall carry out a pilot program with respect to one Silk Road nation selected by the Secretary. It is the sense of Congress that the Secretary should select the Republic of Georgia.

[4] 50 U.S.C. 2570.

(b) SILK ROAD NATIONS DEFINED.—In this section, the Silk Road nations are Armenia, Azerbaijan, the Republic of Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.

(c) FUNDING.—Of the funds authorized to be appropriated to the Department of Energy for nonproliferation and international security for fiscal year 2005, up to $10,000,000 may be used to carry out this section.

**SEC. 3134.[5] NUCLEAR NONPROLIFERATION FELLOWSHIPS FOR SCIENTISTS EMPLOYED BY UNITED STATES AND RUSSIAN FEDERATION.**

(a) IN GENERAL.—(1) From amounts made available to carry out this section, the Administrator for Nuclear Security may carry out a program under which the Administrator awards, to scientists employed at nonproliferation research laboratories of the Russian Federation and the United States, international exchange fellowships, to be known as Nuclear Nonproliferation Fellowships, in the nuclear nonproliferation sciences.

(2) The purpose of the program shall be to provide opportunities for advancement in the nuclear nonproliferation sciences to scientists who, as demonstrated by their academic or professional achievements, show particular promise of making significant contributions in those sciences.

(3) A fellowship awarded to a scientist under the program shall be for collaborative study and training or advanced research at—

(A) a nonproliferation research laboratory of the Russian Federation, in the case of a scientist employed at a nonproliferation research laboratory of the United States; and

(B) a nonproliferation research laboratory of the United States, in the case of a scientist employed at a nonproliferation research laboratory of the Russian Federation.

(4) The duration of a fellowship under the program may not exceed two years, except that the Administrator may provide for a longer duration in an individual case to the extent warranted by extraordinary circumstances, as determined by the Administrator.

(5) In a calendar year, the Administrator may not award more than—

(A) one fellowship to a scientist employed at a nonproliferation research laboratory of the Russian Federation; and

(B) one fellowship to a scientist employed at a nonproliferation research laboratory of the United States.

(6) A fellowship under the program shall include—

(A) travel expenses; and

(B) any other expenses that the Administrator considers appropriate, such as room and board.

(b) DEFINITIONS.—In this section:

(1) The term "nonproliferation research laboratory" means, with respect to a country, a national laboratory of that country at which research in the nuclear nonproliferation sciences is carried out.

(2) The term "nuclear nonproliferation sciences" means bodies of scientific knowledge relevant to developing or advancing

[5] 50 U.S.C. 2571.

the means to prevent or impede the proliferation of nuclear weaponry.

(3) The term "scientist" means an individual who has a degree from an institution of higher education in a science that has practical application in the nuclear nonproliferation sciences.

(c) FUNDING.—Amounts available to the Department of Energy for defense nuclear nonproliferation activities shall be available for the fellowships authorized by subsection (a).

**SEC. 3135. UTILIZATION OF INTERNATIONAL CONTRIBUTIONS TO THE ELIMINATION OF WEAPONS GRADE PLUTONIUM PRODUCTION PROGRAM.**

Section 3151 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2736; 22 U.S.C. 5952 note) is amended * * *

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## f. National Defense Authorization Act for Fiscal Year 2004

**Partial text of Public Law 108–136 [H.R. 1588], 117 Stat. 1392, approved November 24, 2003**

AN ACT To authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 2004".

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## DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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## TITLE X—GENERAL PROVISIONS

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### Subtitle D—Reports

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**SEC. 1033.[1] ANNUAL REPORT CONCERNING DISMANTLING OF STRATEGIC NUCLEAR WARHEADS.**

(a) ANNUAL REPORT.[2]—Concurrent with the submission of the President's budget request to Congress each year, the Director of Central Intelligence shall submit to the committees specified in subsection (e) a report concerning dismantlement of Russian strategic nuclear warheads under the Moscow Treaty. Each such report shall discuss nuclear weapons dismantled by Russia during the prior fiscal year and the Director's projections for nuclear weapons to be dismantled by Russia during the current fiscal year and the fiscal year covered by the budget.

(b) CLASSIFICATION.—The annual report under this section shall be transmitted in an unclassified form when possible and classified form as necessary.

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[1] 22 U.S.C. 5959 note.

[2] Sec. 2(1) of the Senate resolution of advice and consent to ratification of the Moscow Treaty (Treaty No. 107–8; March 6, 2003) requires the President to submit an annual report on the role of cooperative threat reduction and nonproliferation assistance funds in Russian implementation of the Moscow Treaty. In sec. 2(c) of Executive Order 13313 dated July 31, 2003 (68 F.R. 46076; August 5, 2003), the President assigned this requirement to the Secretary of Defense. In addition, sec. 2(2) of the Senate resolution requires the President to submit an annual report on the overall implementation of the treaty. In sec. 2(a)(4) of Executive Order 13313, the President assigned this requirement to the Secretary of State.

(c) TERMINATION OF REPORT REQUIREMENT.—The requirement to submit an annual report under this section terminates when the Moscow Treaty is no longer in effect.

(d) MOSCOW TREATY DEFINED.—For purposes of this section, the term "Moscow Treaty" means the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, done at Moscow on May 24, 2002.

(e) COMMITTEES SPECIFIED.—The committees to which annual reports are to be submitted under this section are the following:

(1) The Committee on Armed Services, the Select Committee on Intelligence, and the Committee on Foreign Relations of the Senate.

(2) The Committee on Armed Services, the Permanent Select Committee on Intelligence, and the Committee on International Relations of the House of Representatives.

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## TITLE XII—MATTERS RELATING TO OTHER NATIONS

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### Subtitle A—Matters Relating to Iraq

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**SEC. 1204.[3] REPORT ON ACQUISITION BY IRAQ OF ADVANCED WEAPONS.**

(a) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and International Relations of the House of Representatives a report on the acquisition by Iraq of weapons of mass destruction and associated delivery systems and the acquisition by Iraq of advanced conventional weapons.

(b) MATTERS TO BE INCLUDED.—The report shall include the following:

(1) A description of any materials, technology, and know how that Iraq was able to obtain for its nuclear, chemical, biological, ballistic missile, and unmanned aerial vehicle programs, and advanced conventional weapons programs, from 1979 through April 2003 from entities (including Iraqi citizens) outside of Iraq, as well as a description of how Iraq obtained these capabilities from those entities.

(2) An assessment of the degree to which United States, foreign, and multilateral export control regimes prevented acquisition by Iraq of weapons of mass destruction-related technology and materials and advanced conventional weapons and delivery systems since the commencement of international inspections in Iraq.

(3) An assessment of the effectiveness of United Nations sanctions at halting the flow of militarily-useful contraband to Iraq from 1991 until the end of Operation Iraqi Freedom.

[3] 10 U.S.C. 113 note.

(4) An assessment of how Iraq was able to evade International Atomic Energy Agency and United Nations inspections regarding chemical, nuclear, biological, and missile weapons and related capabilities.

(5) Identification and a catalog of the entities and countries that transferred militarily useful contraband and items described pursuant to paragraph (1) to Iraq between 1991 and the end of major combat operations of Operation Iraqi Freedom on May 1, 2003, and the nature of that contraband and of those items.

(c) FORM OF REPORT.—The report shall be submitted in unclassified form with a classified annex, if necessary.

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# DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

## TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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### Subtitle C—Proliferation Matters

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**SEC. 3122. REPORT ON REDUCTION OF EXCESSIVE UNOBLIGATED OR UNEXPENDED BALANCES FOR DEFENSE NUCLEAR NONPROLIFERATION ACTIVITIES.**

(a) CONTINGENT REQUIREMENT FOR REPORT.—If as of September 30, 2004, the aggregate amount unobligated, or obligated but not expended, for defense nuclear nonproliferation activities from amounts appropriated for such activities in fiscal year 2004 exceeds an amount equal to 20 percent of the aggregate amount appropriated for such activities in fiscal year 2004, the Administrator for Nuclear Security shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing an aggressive plan to provide for the timely expenditure of amounts remaining unobligated, or obligated but not expended.

(b) SUBMITTAL DATE.—If required to be submitted under subsection (a), the submittal date for the report under that subsection shall be November 30, 2004.

**SEC. 3123.[4] STUDY AND REPORT RELATING TO WEAPONS-GRADE URANIUM AND PLUTONIUM OF THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.**

(a) STUDY REQUIRED.—The Secretary of Energy shall carry out a study on the feasibility, costs, and benefits of—

(1) purchasing, from the independent states of the former Soviet Union, weapons-grade uranium and plutonium excess to the defense needs of those states; and

(2) safeguarding the uranium and plutonium so purchased until rendered unusable for nuclear weapons.

[4] 22 U.S.C. 5952 note.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study required by subsection (a).

**SEC. 3124. AUTHORITY TO USE INTERNATIONAL NUCLEAR MATERIALS PROTECTION AND COOPERATION PROGRAM FUNDS OUTSIDE THE FORMER SOVIET UNION.**

(a) AUTHORITY.—Subject to the provisions of this section, the President may obligate and expend international nuclear materials protection and cooperation program funds for a fiscal year, and any such funds for a fiscal year before such fiscal year that remain available for obligation, for a defense nuclear nonproliferation project or activity outside the states of the former Soviet Union if the President determines each of the following:

(1) That such project or activity will—

(A)(i) assist the United States in the resolution of a critical emerging proliferation threat; or

(ii) permit the United States to take advantage of opportunities to achieve long-standing nonproliferation goals; and

(B) be completed in a short period of time.

(2) That the Department of Energy is the entity of the Federal Government that is most capable of carrying out such project or activity.

(b) SCOPE OF ACTIVITY.—The authority in subsection (a) to obligate and expend funds for a project or activity includes authority to provide equipment, goods, and services for such project or activity utilizing such funds, but does not include authority to provide cash directly to such project or activity.

(c) LIMITATION ON TOTAL AMOUNT OF OBLIGATION.—The amount that may be obligated in a fiscal year under the authority in subsection (a) may not exceed $50,000,000.

(d) LIMITATION ON AVAILABILITY OF FUNDS.—(1) The President may not obligate funds for a project or activity under the authority in subsection (a) until the President makes each determination specified in that subsection with respect to such project or activity.

(2) Not later than 10 days after obligating funds under the authority in subsection (a) for a project or activity, the President shall notify Congress in writing of the determinations made under paragraph (1) with respect to such project or activity, together with—

(A) a justification for such determinations; and

(B) a description of the scope and duration of such project or activity.

(e) ADDITIONAL LIMITATIONS AND REQUIREMENTS.—Except as otherwise provided in subsections (a) and (b), the exercise of the authority in subsection (a) shall be subject to any requirement or limitation under another provision of law as follows:

(1) Any requirement for prior notice or other reports to Congress on the use of international nuclear materials protection and cooperation program funds or on international nuclear materials protection and cooperation program projects or activities.

(2) Any limitation on the obligation or expenditure of international nuclear materials protection and cooperation program funds.

(3) Any limitation on international nuclear materials protection and cooperation program projects or activities.

(f) FUNDS.—As used in this section, the term "international nuclear materials protection and cooperation program funds" means the funds appropriated pursuant to the authorization of appropriations in section 3101(a)(2) for such program.

**SEC. 3125.[5] REQUIREMENT FOR ON-SITE MANAGERS.**

(a) ON-SITE MANAGER REQUIREMENT.—Before obligating any defense nuclear nonproliferation funds for a project described in subsection (b), the Secretary of Energy shall appoint one on-site manager for that project. The manager shall be appointed from among employees of the Federal Government.

(b) PROJECTS COVERED.—Subsection (a) applies to a project—

(1) to be located in a state of the former Soviet Union;

(2) which involves dismantlement, destruction, or storage facilities, or construction of a facility; and

(3) with respect to which the total contribution by the Department of Energy is expected to exceed $50,000,000.

(c) DUTIES OF ON-SITE MANAGER.—The on-site manager appointed under subsection (a) shall—

(1) develop, in cooperation with representatives from governments of countries participating in the project, a list of those steps or activities critical to achieving the project's disarmament or nonproliferation goals;

(2) establish a schedule for completing those steps or activities;

(3) meet with all participants to seek assurances that those steps or activities are being completed on schedule; and

(4) suspend United States participation in a project when a non-United States participant fails to complete a scheduled step or activity on time, unless directed by the Secretary of Energy to resume United States participation.

(d) AUTHORITY TO MANAGE MORE THAN ONE PROJECT.—(1) Subject to paragraph (2), an employee of the Federal Government may serve as on-site manager for more than one project, including projects at different locations.

(2) If such an employee serves as on-site manager for more than one project in a fiscal year, the total cost of the projects for that fiscal year may not exceed $150,000,000.

(e) STEPS OR ACTIVITIES.—Steps or activities referred to in subsection (c)(1) are those activities that, if not completed, will prevent a project from achieving its disarmament or nonproliferation goals, including, at a minimum, the following:

(1) Identification and acquisition of permits (as defined in subsection (g)).

(2) Verification that the items, substances, or capabilities to be dismantled, secured, or otherwise modified are available for dismantlement, securing, or modification.

(3) Timely provision of financial, personnel, management, transportation, and other resources.

(f) NOTIFICATION TO CONGRESS.—In any case in which the Secretary of Energy directs an on-site manager to resume United

[5] 22 U.S.C. 5961a.

States participation in a project under subsection (c)(4), the Secretary shall concurrently notify Congress of such direction.

(g) PERMIT DEFINED.—In this section, the term "permit" means any local or national permit for development, general construction, environmental, land use, or other purposes that is required in the state of the former Soviet Union in which the project is being or is proposed to be carried out.

(h) EFFECTIVE DATE.—This section shall take effect six months after the date of the enactment of this Act.

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## g. Bob Stump National Defense Authorization Act for Fiscal Year 2003

**Partial text of Public Law 107–314 [H.R. 4546], 116 Stat. 2458, approved December 2, 2002**

AN ACT To authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; FINDINGS.**

(a) SHORT TITLE.—This Act may be cited as the "Bob Stump National Defense Authorization Act for Fiscal Year 2003".

(b) * * *

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## DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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## TITLE XII—MATTERS RELATING TO OTHER NATIONS

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**SEC. 1204. SUPPORT OF UNITED NATIONS-SPONSORED EFFORTS TO INSPECT AND MONITOR IRAQI WEAPONS ACTIVITIES.**

(a) LIMITATION ON AMOUNT OF ASSISTANCE IN FISCAL YEAR 2003.—The total amount of the assistance for fiscal year 2003 that is provided by the Secretary of Defense under section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) as activities of the Department of Defense in support of activities under that Act may not exceed $15,000,000.

(b) EXTENSION OF AUTHORITY TO PROVIDE ASSISTANCE.—Subsection (f) of section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) is amended by striking "2002" and inserting "2003".

**SEC. 1205.[1] COMPREHENSIVE ANNUAL REPORT TO CONGRESS ON COORDINATION AND INTEGRATION OF ALL UNITED STATES NONPROLIFERATION ACTIVITIES.**

Section 1205 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1247) is amended * * *

[1] 22 U.S.C. 5952 note.

**SEC. 1206.[2] REPORT REQUIREMENT REGARDING RUSSIAN PROLIFERATION TO IRAN AND OTHER COUNTRIES OF PROLIFERATION CONCERN.**

(a)[3] REPORT REQUIREMENT.—Not later than March 15 of 2003 through 2009, the President shall submit to Congress a report (in unclassified and classified form as necessary) describing in detail Russian proliferation of weapons of mass destruction and ballistic missile goods, technology, expertise, and information, and of dual-use items that may contribute to the development of weapons of mass destruction and ballistic missiles, to Iran and to other countries of proliferation concern during the year preceding the year in which the report is submitted. The report shall include a detailed description of the following, for the year covered by the report:

(1) The number, type, and quality of direct and dual-use weapons of mass destruction and ballistic missile goods, technology, expertise, and information transferred.

(2) The form, location, and manner in which such transfers took place.

(3) The contribution that such transfers could make to the recipient countries' weapons of mass destruction and ballistic missile programs, and an estimate of how soon such countries will test, possess, and deploy weapons of mass destruction and ballistic missiles.

(4) The impact and consequences that such transfers have, and could have over the next 10 years—

(A) on United States national security;

(B) on United States military forces deployed in the region to which such transfers are being made;

(C) on United States allies, friends, and interests in that region; and(D) on the military capabilities of the country receiving such transfers from Russia.

(5) The policy and strategy that the President intends to employ to halt Russian proliferation, the policy tools that the President intends to use to carry out that policy and strategy, the rationale for employing such tools, and the timeline by which the President expects to see material progress in ending Russian proliferation of direct and dual-use weapons of mass destruction and missile goods, technology, expertise, and information.

(b) DEFINITION.—In this section, the term "country of proliferation concern" means any country identified by the Director of Central Intelligence as having engaged in the acquisition of dual-use and other technology useful for the development or production of weapons of mass destruction (including nuclear weapons, chemical weapons, and biological weapons) or advanced conventional munitions—

(1) in the most recent report under section 721 of the Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII of Public Law 104–293; 50 U.S.C. 2366); or

[2] 22 U.S.C. 5952 note.

[3] In sec. 1(a)(18) of Executive Order 13313 of July 31, 2003 (68 F.R. 46073; August 5, 2003), the President assigned the reporting duties in subsec. (a) to the Secretary of State.

(2) in any successor report on the acquisition by foreign countries of dual-use and other technology useful for the development or production of weapons of mass destruction.

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**SEC. 1208. EXTENSION OF CERTAIN COUNTERPROLIFERATION ACTIVITIES AND PROGRAMS.**

(a) EXTENSION OF INTERAGENCY COUNTERPROLIFERATION PROGRAM REVIEW COMMITTEE.—Section 1605(f) of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note) is amended * * *

(b) LATER DEADLINE FOR SUBMISSION OF ANNUAL REPORT.—Subsection (a) of section 1503 of the National Defense Authorization Act for Fiscal Year 1995 (22 U.S.C. 2751 note) is amended * * *

(c) ADDITIONAL MATTERS TO BE INCLUDED IN ANNUAL REPORT.—Subsection (b) of such section is amended * * *

(d) TECHNICAL AMENDMENT TO REFLECT CHANGE IN POSITION TITLE.—Section 1605(a)(4) of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note) is amended * * *

**SEC. 1209. SEMIANNUAL REPORT BY DIRECTOR OF CENTRAL INTELLIGENCE ON CONTRIBUTIONS BY FOREIGN PERSONS TO EFFORTS BY COUNTRIES OF PROLIFERATION CONCERN TO OBTAIN WEAPONS OF MASS DESTRUCTION AND THEIR DELIVERY SYSTEMS.**

(a) CONTENT OF SEMIANNUAL REPORT.—The Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII of Public Law 104–293) is amended * * *

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# DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

## TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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### Subtitle C—Proliferation Matters

**SEC. 3151.[4] TRANSFER TO NATIONAL NUCLEAR SECURITY ADMINISTRATION OF DEPARTMENT OF DEFENSE'S COOPERATIVE THREAT REDUCTION PROGRAM RELATING TO ELIMINATION OF WEAPONS GRADE PLUTONIUM PRODUCTION IN RUSSIA.** * * *

**SEC. 3152. REPEAL OF REQUIREMENT FOR REPORTS ON OBLIGATION OF FUNDS FOR PROGRAMS ON FISSILE MATERIALS IN RUSSIA.**

Section 3131 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 617; 22 U.S.C. 5952 note) is amended—* * *

[4] 22 U.S.C. 5952 note. For the full text of this section, see the entry entitled "Cooperative Threat Reduction, Fiscal Year 2003", page 79 of this volume.

**SEC. 3153. EXPANSION OF ANNUAL REPORTS ON STATUS OF NUCLEAR MATERIALS PROTECTION, CONTROL, AND ACCOUNTING PROGRAMS.**

(a) COVERED PROGRAMS.—Subsection (a) of section 3171 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–475; 22 U.S.C. 5952 note) is amended * * *

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**SEC. 3156.[5] MATTERS RELATING TO THE INTERNATIONAL MATERIALS PROTECTION, CONTROL, AND ACCOUNTING PROGRAM OF THE DEPARTMENT OF ENERGY.**

(a) RADIOLOGICAL DISPERSAL DEVICE MATERIALS PROTECTION, CONTROL, AND ACCOUNTING.—The Secretary of Energy may establish within the International Materials Protection, Control, and Accounting program of the Department of Energy a program on the protection, control, and accounting of materials usable in radiological dispersal devices. In establishing such program, the Secretary shall—

(1) identify the sites and radiological materials to be covered by such program;

(2) carry out a risk assessment of such radiological materials; and

(3) identify and establish the costs of and schedules for such program.

(b) REVISED FOCUS FOR MATERIALS PROTECTION, CONTROL, AND ACCOUNTING PROGRAM OF RUSSIAN FEDERATION.—(1) The Secretary of Energy shall work cooperatively with the Russian Federation to develop, as soon as practicable but not later than January 1, 2013, a sustainable nuclear materials protection, control, and accounting system for the nuclear materials of the Russian Federation that is supported solely by the Russian Federation.

(2) The Secretary shall work with the Russian Federation to identify various alternatives to provide the United States adequate transparency in the nuclear materials protection, control, and accounting program of the Russian Federation to assure that such program is meeting applicable goals for nuclear materials protection, control, and accounting.

(c) AMOUNT FOR ACTIVITIES.—Of the amount authorized to be appropriated by section 3101(a)(2) for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation, up to $5,000,000 may be available for carrying out this section.

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**SEC. 3158.[6] STRENGTHENED INTERNATIONAL SECURITY FOR NUCLEAR MATERIALS AND SECURITY OF NUCLEAR OPERATIONS.**

(a) REPORT ON OPTIONS FOR INTERNATIONAL PROGRAM TO STRENGTHEN SECURITY.—(1) Not later than 270 days after the date of the enactment of this Act, the Secretary of Energy shall submit

[5] 50 U.S.C. 2343.
[6] 50 U.S.C. 2344.

to Congress a report on options for an international program to develop strengthened security for nuclear reactors and associated materials outside the United States.

(2) In evaluating options for purposes of the report, the Secretary shall consult with the Nuclear Regulatory Commission and the International Atomic Energy Agency on the feasibility and advisability of actions to reduce the risks associated with terrorist attacks on nuclear reactors outside the United States.

(b) JOINT PROGRAMS WITH RUSSIA ON PROLIFERATION-RESISTANT NUCLEAR ENERGY TECHNOLOGIES.—(1) The Secretary shall pursue with the Ministry of Atomic Energy of the Russian Federation joint programs between the United States and the Russian Federation on the development of proliferation-resistant nuclear energy technologies, including advanced fuel cycles.

(2) Of the amount authorized to be appropriated by section 3101(a)(2) for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation, up to $10,000,000 may be available for carrying out the joint programs referred to in paragraph (1).

(c) ASSISTANCE REGARDING HOSTILE INSIDERS.—The Secretary may, utilizing appropriate expertise of the Department of Energy and the Nuclear Regulatory Commission, provide technical assistance to nuclear reactor facilities outside the United States with respect to the interdiction of hostile insiders at such facilities in order to prevent incidents arising from the disablement of the vital systems of such facilities.

**SEC. 3159.[7] EXPORT CONTROL PROGRAMS.**

(a) AUTHORITY TO PURSUE OPTIONS FOR STRENGTHENING EXPORT CONTROL PROGRAMS.—The Secretary of Energy, in coordination with the Secretary of State, may pursue in the region of the former Soviet Union and other regions of concern options for accelerating programs that assist the countries in such regions in improving their domestic export control programs for materials, technologies, and expertise relevant to the construction or use of a nuclear or radiological dispersal device.

(b) AMOUNT FOR ACTIVITIES.—Of the amount authorized to be appropriated by section 3101(a)(2) for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation, up to $5,000,000 may be available for carrying out this section.

**SEC. 3160.[8] PLAN FOR ACCELERATED RETURN OF WEAPONS-USABLE NUCLEAR MATERIALS.**

(a) PLAN FOR ACCELERATED RETURN.—The Secretary of Energy shall work with the Russian Federation to develop a plan to accelerate the return to Russia of all weapons-usable nuclear materials located in research reactors and other facilities outside Russia that were supplied by the former Soviet Union.

(b) FUNDING AND SCHEDULES.—As part of the plan under subsection (a), the Secretary shall identify the funding and schedules required to assist the research reactors and facilities referred to in that subsection in—

[7] 50 U.S.C. 2345.
[8] 22 U.S.C. 5952 note.

(1) transferring highly enriched uranium to Russia; and

(2) upgrading the materials protection, control, and accounting procedures at such research reactors and facilities until the weapons-usable nuclear materials in such reactors and facilities are returned in accordance with that subsection.

(c) COORDINATION.—The provision of assistance under subsection (b) shall be closely coordinated with the International Atomic Energy Agency.

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## h. National Defense Authorization Act for Fiscal Year 2002

**Partial text of Public Law 107–107 [S. 1438], 115 Stat. 1012, approved December 28, 2001; as amended by Public Law 107–314 [Bob Stump National Defense Authorization Act for Fiscal Year 2003; H.R. 4546], 116 Stat. 2458, approved December 2, 2002**

AN ACT To authorize appropriations for fiscal year 2002 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 2002".

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### DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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### TITLE XII—MATTERS RELATING TO OTHER NATIONS

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### Subtitle A—Matters Related to Arms Control and Monitoring

**SEC. 1201. CLARIFICATION OF AUTHORITY TO FURNISH NUCLEAR TEST MONITORING EQUIPMENT TO FOREIGN GOVERNMENTS.**

(a) * * *[1]

**SEC. 1202. LIMITATION ON FUNDING FOR JOINT DATA EXCHANGE CENTER IN MOSCOW.**

(a) LIMITATION.—Not more than 50 percent of the funds made available to the Department of Defense for fiscal year 2002 for activities associated with the Joint Data Exchange Center in Moscow, Russia, may be obligated for any such activity until—

(1) the United States and the Russian Federation enter into a cost-sharing agreement as described in subsection (d) of section 1231 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as enacted into law by Public Law 106–398 (114 Stat. 1654A–329);

[1] This section redesignated the second 10 U.S.C. 2555 added by sec. 1203(a) of the Appendix to the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (H.R. 5408, as enacted into law by Public Law 106–398; 114 Stat. 1654A–324) as 10 U.S.C. 2565, and amended the section in several places. See *Legislation on Foreign Relations Through 2008*, vol. I–B, for the full text of the redesignated sec. 2565 as amended.

(2) the United States and the Russian Federation enter into an agreement or agreements exempting the United States and any United States person from Russian taxes, and from liability under Russian laws, with respect to activities associated with the Joint Data Exchange Center;

(3) the Secretary of Defense submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a copy of each agreement referred to in paragraphs (1) and (2); and

(4) a period of 30 days has expired after the date of the final submission under paragraph (3).

(b) JOINT DATA EXCHANGE CENTER.—For purposes of this section, the term "Joint Data Exchange Center" means the United States-Russian Federation joint center for the exchange of data to provide early warning of launches of ballistic missiles and for notification of such launches that is provided for in a joint United States-Russian Federation memorandum of agreement signed in Moscow in June 2000.

**SEC. 1203. SUPPORT OF UNITED NATIONS-SPONSORED EFFORTS TO INSPECT AND MONITOR IRAQI WEAPONS ACTIVITIES.**

(a) LIMITATION ON AMOUNT OF ASSISTANCE IN FISCAL YEAR 2002.—The total amount of the assistance for fiscal year 2002 that is provided by the Secretary of Defense under section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) as activities of the Department of Defense in support of activities under that Act may not exceed $15,000,000.

(b) EXTENSION OF AUTHORITY TO PROVIDE ASSISTANCE.—Subsection (f) of section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) is amended * * *

**SEC. 1204. AUTHORITY FOR EMPLOYEES OF FEDERAL GOVERNMENT CONTRACTORS TO ACCOMPANY CHEMICAL WEAPONS INSPECTION TEAMS AT GOVERNMENT-OWNED FACILITIES.**

(a) AUTHORITY.—Section 303(b)(2) of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6723(b)(2)) is amended * * *

(b) CREDENTIALS.—Section 304(c) of such Act (22 U.S.C. 6724(c)) is amended * * *

**SEC. 1205. PLAN FOR SECURING NUCLEAR WEAPONS, MATERIAL, AND EXPERTISE OF THE STATES OF THE FORMER SOVIET UNION.**

(a) PLAN REQUIRED.—Not later than June 15, 2002, the President shall submit to Congress a plan, that has been developed in coordination with all relevant Federal agencies—

(1) for cooperating with Russia on disposing, as soon as practicable, of nuclear weapons and weapons-usable nuclear material in Russia that Russia does not retain in its nuclear arsenals;

(2) for assisting Russia in downsizing its nuclear weapons research and production complex;

(3) for cooperating with the other states of the former Soviet Union on disposing, as soon as practicable, of all nuclear weapons and weapons-usable nuclear material in such states; and

(4) for preventing the outflow from the states of the former Soviet Union of scientific expertise that could be used for developing nuclear weapons, other weapons of mass destruction, and delivery systems for such weapons.

(b) CONTENT OF PLAN.—The plan required by subsection (a) shall include the following:

(1) Specific goals and measurable objectives for programs that are designed to carry out the objectives described in subsection (a).

(2) Criteria for success for such programs, and a strategy for eventual termination of United States contributions to such programs and assumption of the ongoing support of those programs by others.

(3) A description of any administrative and organizational changes necessary to improve the coordination and effectiveness of such programs. In particular, the plan shall include consideration of the creation of an interagency committee that wouldhave primary responsibilities within the executive branch for—

(A) monitoring United States nonproliferation efforts in the states of the former Soviet Union;

(B) coordinating the implementation of United States policy with respect to such efforts; and

(C) recommending to the President integrated policies, budget options, and private sector and international contributions for such programs.

(4) An estimate of the cost of carrying out such programs.

(c) CONSULTATION.—In developing the plan required by subsection (a), the President—

(1) is encouraged to consult with the relevant states of the former Soviet Union regarding the practicality of various options; and

(2) shall consult with the majority and minority leadership of the appropriate committees of Congress.

(d)[2] ANNUAL REPORT ON IMPLEMENTATION OF PLAN.—(1) Not later than January 31, 2003, and each year thereafter, the President shall submit to Congress a report on the implementation of the plan required by subsection (a) during the preceding year.

(2) Each report under paragraph (1) shall include—

(A) a discussion of progress made during the year covered by such report in the matters of the plan required by subsection (a);

(B) a discussion of consultations with foreign nations, and in particular the Russian Federation, during such year on joint programs to implement the plan;

(C) a discussion of cooperation, coordination, and integration during such year in the implementation of the plan among the various departments and agencies of the United States Government, as well as private entities that share objectives similar to the objectives of the plan; and

[2] Sec. 1205 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2664) added subsec. (d).

(D) any recommendations that the President considers appropriate regarding modifications to law or regulations, or to the administration or organization of any Federal department or agency, in order to improve the effectiveness of any programscarried out during such year in the implementation of the plan.

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## Subtitle C—Reports

**SEC. 1221. REPORT ON SIGNIFICANT SALES AND TRANSFERS OF MILITARY HARDWARE, EXPERTISE, AND TECHNOLOGY TO THE PEOPLE'S REPUBLIC OF CHINA.**

Section 1202 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 781; 10 U.S.C. 113 note)[3] is amended * * *

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# DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

# TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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## Subtitle A—National Security Programs Authorizations

**SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.**

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2002 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security in the amount of $7,121,094,000, to be allocated as follows:

(1) * * *

(2) DEFENSE NUCLEAR NONPROLIFERATION.—For defense nuclear nonproliferation activities, $776,886,000, to be allocated as follows:

(A) * * *

(B) For arms control and Russian transition initiatives, $117,741,000.

(C) For international materials protection, control, and accounting, $143,800,000.

(D) For highly enriched uranium transparency implementation, $13,950,000.

(E) For international nuclear safety, $10,000,000.

(F) For fissile materials control and disposition, $289,089,000, to be allocated as follows:

(i) * * *

(ii) For Russian surplus fissile materials disposition, $61,000,000.

[3] Sec. 1202 of Public Law 106–65 concerns an annual report on the military power of the People's Republic of China.

(G) * * *
(3)–(4) * * *

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## Subtitle C—Program Authorizations, Restrictions, and Limitations

**SEC. 3131. CONSOLIDATION OF NUCLEAR CITIES INITIATIVE PROGRAM WITH INITIATIVES FOR PROLIFERATION PREVENTION PROGRAM.**

The Administrator for Nuclear Security shall consolidate the Nuclear Cities Initiative program with the Initiatives for Proliferation Prevention program under a single management line.

**SEC. 3132. NUCLEAR CITIES INITIATIVE.**

(a) LIMITATIONS ON USE OF FUNDS.—No funds authorized to be appropriated for the Nuclear Cities Initiative after fiscal year 2001 may be obligated or expended with respect to more than three nuclear cities, or more than two serial production facilities in Russia, until 30 days after the Administrator for Nuclear Security submits to the appropriate congressional committees an agreement signed by the Russian Federation on access under the Nuclear Cities Initiative to the ten closed nuclear cities and four serial production facilities of the Nuclear Cities Initiative.

(b) ANNUAL REPORT.—(1) Not later than the first Monday in February each year, the Administrator shall submit to the appropriate congressional committees a report on financial and programmatic activities with respect to the Nuclear Cities Initiative during the preceding fiscal year.

(2) Each report shall include, for the fiscal year covered by such report, the following:

(A) A list of each project that is or was completed, ongoing, or planned under the Nuclear Cities Initiative during such fiscal year.

(B) For each project listed under subparagraph (A), information, current as of the end of such fiscal year, on the following:

(i) The purpose of such project.

(ii) The budget for such project.

(iii) The life-cycle costs of such project.

(iv) Participants in such project.

(v) The commercial viability of such project.

(vi) The number of jobs in Russia created or to be created by or through such project.

(vii) Of the total amount of funds spent on such project, the percentage of such amount spent in the United States and the percentage of such amount spent overseas.

(C) A certification by the Administrator that each project listed under subparagraph (A) did contribute, is contributing, or will contribute, as the case may be, to the downsizing of the nuclear weapons complex in Russia, together with a description of the evidence utilized to make such certification.

(c) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee

on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(2) NUCLEAR CITIES INITIATIVE.—The term "Nuclear Cities Initiative" means the initiative arising pursuant to the March 1998 discussion between the Vice President of the United States and the Prime Minister of the Russian Federation and between the Secretary of Energy of the United States and the Minister of Atomic Energy of the Russian Federation.[4]

(3) NUCLEAR CITY.—The term "nuclear city" means any of the nuclear cities within the complex of the Russia Ministry of Atomic Energy (MINATOM) as follows:

(A) Sarov (Arzamas-16 and Avangard).
(B) Zarechnyy (Penza-19).
(C) Novoural'sk (Sverdlovsk-44).
(D) Lesnoy (Sverdlovsk-45).
(E) Ozersk (Chelyabinsk-65).
(F) Snezhinsk (Chelyabinsk-70).
(G) Trechgornyy (Zlatoust-36).
(H) Seversk (Tomsk-7).
(I) Zhelenznogorsk (Krasnoyarsk-26).
(J) Zelenogorsk (Krasnoyarsk-45).

[4] The United States and the Russian Federation entered into the formal agreement on the Nuclear Cities Initiative on September 22, 1998, and the agreement entered into force the same day.

## i. Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001

**Partial text of Public Law 106–398 [H.R. 4205, in which H.R. 5408 is enacted by reference], 114 Stat. 1654, approved October 30, 2000; amended by Public Law 107–107 [National Defense Authorization Act for Fiscal Year 2002; S. 1438], 115 Stat. 1245, approved December 28, 2001; and Public Law 107–314 [Bob Stump National Defense Authorization Act for Fiscal Year 2003; H.R. 4546), 116 Stat. 2458, approved December 2, 2002**

A BILL To authorize appropriations for fiscal year 2001 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; FINDINGS.**

(a) SHORT TITLE.—This Act may be cited as the "Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001".

(b) * * *

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## DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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## TITLE XII—MATTERS RELATING TO OTHER NATIONS

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### Subtitle A—Matters Related to Arms Control

**SEC. 1201. SUPPORT OF UNITED NATIONS-SPONSORED EFFORTS TO INSPECT AND MONITOR IRAQI WEAPONS ACTIVITIES.**

(a) LIMITATION ON AMOUNT OF ASSISTANCE IN FISCAL YEAR 2001—The total amount of the assistance for fiscal year 2001 that is provided by the Secretary of Defense under section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) as activities of the Department of Defense in support of activities under that Act may not exceed $15,000,000.

(b) EXTENSION OF AUTHORITY TO PROVIDE ASSISTANCE.—Subsection (f) of section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) is amended * * *

**SEC. 1202. SUPPORT OF CONSULTATIONS ON ARAB AND ISRAELI ARMS CONTROL AND REGIONAL SECURITY ISSUES.**

Of the amount authorized to be appropriated by section 301(5), up to $1,000,000 is available for the support of programs to promote formal and informal region-wide consultations among Arab, Israeli, and United States officials and experts on arms control and security issues concerning the Middle East region.

**SEC. 1203. FURNISHING OF NUCLEAR TEST MONITORING EQUIPMENT TO FOREIGN GOVERNMENTS.**

(a) IN GENERAL.—Chapter 152 of title 10, United States Code, is amended * * *[1]

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item: * * *

**SEC. 1204. ADDITIONAL MATTERS FOR ANNUAL REPORT ON TRANSFERS OF MILITARILY SENSITIVE TECHNOLOGY TO COUNTRIES AND ENTITIES OF CONCERN.**

Section 1402(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 798) is amended * * *

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## DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

## TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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### Subtitle F—Matters Relating to Defense Nuclear Nonproliferation

**SEC. 3171. ANNUAL REPORT ON STATUS OF NUCLEAR MATERIALS PROTECTION, CONTROL, AND ACCOUNTING PROGRAM.**

(a) REPORT REQUIRED.—Not later than January 1 of each year, the Secretary of Energy shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the status of efforts during the preceding fiscal year under the Nuclear Materials Protection, Control, and Accounting Program of the Department of Energy to secure weapons-usable nuclear materials in countries where such materials[2] have been identified as being at risk for theft or diversion.

(b) CONTENTS.—Each report under subsection (a) shall include the following:

(1) The number of buildings, including building locations in each country covered by subsection (a),[3] that received complete and integrated materials protection, control, and accounting

[1] Sec. 1203(a) added a new sec. 2555 to 10 U.S.C., resulting in two sections designated as sec. 2555. Sec. 1201(a)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1245) redesignated the second sec. 2555 added here as 10 U.S.C. 2565, and amended the section in several places. See *Legislation on Foreign Relations Through 2008*, vol. I–B, for the full text of the redesignated sec. 2565 as amended.

[2] Sec. 3153(a) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2738) struck out "Russia that" and inserted in lieu thereof "countries where such materials".

[3] Sec. 3153(b)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2738) added "in each country covered by subsection (a)" in para. (1). Sec. 3153(b)(2) of that Act struck out "in Russia" in para. (2) and inserted in lieu thereof "in each such country". Sec. 3153(b)(3) added "in each such country" in para. (3). Sec. 3153(b)(4) struck out "by total amount and by amount per fiscal year" and inserted in lieu thereof "by total amount per country and by amount per fiscal year per country" in para. (5).

systems for nuclear materials described in subsection (a) during the year covered by such report.

(2) The amounts of highly enriched uranium and plutonium in each such country[3] that have been secured under systems described in paragraph (1) as of the date of such report.

(3) The amount of nuclear materials described in subsection (a) in each such country[3] that continues to require securing under systems described in paragraph (1) as of the date of such report.

(4) A plan for actions to secure the nuclear materials identified in paragraph (3) under systems described in paragraph (1), including an estimate of the cost of such actions.

(5) The amounts expended through the fiscal year preceding the date of such report to secure nuclear materials described in subsection (a) under systems described in paragraph (1), set forth by total amount per country and by amount per fiscal year per country.[3]

(c) LIMITATION ON USE OF CERTAIN FUNDS.—(1) No amounts authorized to be appropriated for the Department of Energy by this Act or any other Act for purposes of the Nuclear Materials Protection, Control, and Accounting Program may be obligated or expended after September 30, 2000, for any project under the program at a site controlled by the Russian Ministry of Atomic Energy (MINATOM) in Russia until the Secretary submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the access policy established with respect to such project, including a certification that the access policy has been implemented.

(2) The access policy with respect to a project under this subsection shall—

(A) permit appropriate determinations by United States officials regarding security requirements, including security upgrades, for the project; and

(B) ensure verification by United States officials that Department of Energy assistance at the project is being used for the purposes intended.

**SEC. 3172. NUCLEAR CITIES INITIATIVE.**

(a) IN GENERAL.—(1) The Secretary of Energy may, in accordance with the provisions of this section, expand and enhance the activities of the Department of Energy under the Nuclear Cities Initiative.

(2) In this section, the term "Nuclear Cities Initiative" means the initiative arising pursuant to the joint statement dated July 24, 1998, signed by the Vice President of the United States and the Prime Minister of the Russian Federation and the agreement dated September 22, 1998, between the United States and the Russian Federation.

(b) FUNDING FOR FISCAL YEAR 2001.—There is hereby authorized to be appropriated for the Department of Energy for fiscal year 2001 $30,000,000 for purposes of the Nuclear Cities Initiative.

(c) LIMITATION PENDING SUBMISSION OF AGREEMENT.—No amount authorized to be appropriated or otherwise made available for the Department of Energy for fiscal year 2001 for the Nuclear

Cities Initiative may be obligated or expended to provide assistance under the Initiative for more than three nuclear cities in Russia and two serial production facilities in Russia until 30 days after the date on which the Secretary of Energy submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a copy of a written agreement between the United States Government and the Government of the Russian Federation which provides that Russia will close some of its facilities engaged in nuclear weapons assembly and disassembly work.

(d) LIMITATION PENDING IMPLEMENTATION OF PROJECT REVIEW PROCEDURES.—(1) Not more than $8,750,000 of the amounts referred to in subsection (b) may be obligated or expended for purposes of the Initiative until the Secretary of Energy establishes and implements project review procedures for projects under the Initiative and submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the project review procedures so established and implemented.

(2) The project review procedures established under paragraph (1) shall ensure that any scientific, technical, or commercial project initiated under the Initiative—

(A) will not enhance the military or weapons of mass destruction capabilities of Russia;

(B) will not result in the inadvertent transfer or utilization of products or activities under such project for military purposes;

(C) will be commercially viable; and

(D) will be carried out in conjunction with an appropriate commercial, industrial, or nonprofit entity as partner.

(e) LIMITATION PENDING CERTIFICATION AND REPORT.—No amount in excess of $17,500,000 authorized to be appropriated for the Department of Energy for fiscal year 2001 for the Nuclear Cities Initiative may be obligated or expended for purposes of providing assistance under the Initiative until 30 days after the date on which the Secretary of Energy submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives the following:

(1) A copy of the written agreement between the United States and the Russian Federation which provides that Russia will close some of its facilities engaged in nuclear weapons assembly and disassembly work within five years of the date of the agreement in exchange for receiving assistance through the Initiative.

(2) A certification by the Secretary—

(A) that project review procedures for all projects under the Initiative have been established and are being implemented; and

(B) that those procedures will ensure that any scientific, technical, or commercial project initiated under the Initiative—

(i) will not enhance the military or weapons of mass destruction capabilities of Russia;

(ii) will not result in the inadvertent transfer or utilization of products or activities under such project for military purposes;

(iii) will be commercially viable within three years after the date of the initiation of the project; and

(iv) will be carried out in conjunction with an appropriate commercial, industrial, or other nonprofit entity as partner.

(3) A report setting forth the following:

(A) A description of the project review procedures process.

(B) A list of the projects under the Initiative that have been reviewed under such project review procedures.

(C) A description for each project listed under subparagraph (B) of the purpose, expected life-cycle costs, outyear budget costs, participants, commercial viability, expected time for income generation, and number of Russian jobs created.

(f) PLAN FOR RESTRUCTURING THE RUSSIAN NUCLEAR COMPLEX.—(1) The President, acting through the Secretary of Energy, is urged to enter into discussions with the Russian Federation for purposes of the development by the Russian Federation of a plan to restructure the Russian nuclear complex in order to meet changes in the national security requirements of Russia by 2010.

(2) The plan under paragraph (1) should include the following:

(A) Mechanisms to consolidate the nuclear weapons production capacity in Russia to a capacity that is consistent with the obligations of Russia under current and future arms control agreements.

(B) Mechanisms to increase transparency regarding the restructuring of the Russian nuclear complex and weapons-surplus nuclear materials inventories in Russia to the levels of transparency for such matters in the United States, including the participation of Department of Energy officials with expertise in transparency of such matters.

(C) Measurable milestones that will permit the United States and the Russian Federation to monitor progress under the plan.

(g) ENCOURAGEMENT OF CAREERS IN NONPROLIFERATION.—(1) In carrying out actions under this section, the Secretary of Energy may carry out a program to encourage students in the United States and in the Russian Federation to pursue careers in areas relating to nonproliferation.

(2) Of the amounts made available under the Initiative for fiscal year 2001 in excess of $17,500,000, up to $2,000,000 shall be available for purposes of the program under paragraph (1).

(3) The Administrator for Nuclear Security shall notify the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives before any funds are expended pursuant to paragraph (2). Any such notification shall include—

(A) an identification of the amount to be expended under paragraph (2) during fiscal year 2001;

(B) the recipients of the funds; and

(C) specific information on the activities that will be conducted using those funds.

(h) DEFINITIONS.—In this section:

(1) The term "nuclear city" means any of the closed nuclear cities within the complex of the Russian Ministry of Atomic Energy as follows:

(A) Sarov (Arzamas-16).
(B) Zarechnyy (Penza-19).
(C) Novoural'sk (Sverdlovsk-44).
(D) Lesnoy (Sverdlovsk-45).
(E) Ozersk (Chelyabinsk-65).
(F) Snezhinsk (Chelyabinsk-70).
(G) Trechgornyy (Zlatoust-36).
(H) Seversk (Tomsk-7).
(I) Zheleznogorsk (Krasnoyarsk-26).
(J) Zelenogorsk (Krasnoyarsk-45).

(2) The term "Russian nuclear complex" means all of the nuclear cities.

(3) The term "serial production facilities" means the facilities in Russia that are located at the following cities:

(A) Avangard.
(B) Lesnoy (Sverdlovsk-45).
(C) Trechgornyy (Zlatoust-36).
(D) Zarechnyy (Penza-19).

**SEC. 3173. DEPARTMENT OF ENERGY NONPROLIFERATION MONITORING.**

(a) REPORT REQUIRED.—Not later than March 1, 2001, the Secretary of Energy shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the efforts of the Department of Energy to ensure adequate oversight and accountability of the Department's nonproliferation programs in Russia and the potential costs and effects of the use of on-the-ground monitoring for the Department's significant nonproliferation programs in Russia. The report shall include the following:

(1) A detailed discussion of the current management and oversight mechanisms used to ensure that Federal funds are expended for the intended purposes of those programs and that the projects are achieving their intended objectives.

(2) An evaluation of whether those mechanisms are adequate.

(3) A discussion of whether there is a need for additional employees of the Department, or of contractors of the Department, to be stationed in Russia, or to visit nonproliferation project sites in Russia on a regular basis, to monitor the programs carried out at those sites, and an estimate of the practical considerations and costs of such monitoring.

(4) An identification of each nonproliferation program and each site at which an employee referred to in paragraph (3) would be placed to monitor that program.

(5) A description of the costs associated with continued on-the-ground monitoring of those programs, including the costs associated with placing those employees in Russia.

(6) Recommendations regarding the most cost-effective option for the Department to pursue to ensure that Federal funds for those programs are expended for the intended purposes of those programs.

(7) Any recommendations of the Secretary for further improvements in the oversight and accountability of those programs, including any proposed legislation.

(b) GAO REPORT.—Not later than April 15, 2001, the Comptroller General shall submit to the committees referred to in subsection (a) a report setting forth the assessment of the Comptroller General concerning the information contained in the report required by that subsection.

**SEC. 3174. SENSE OF CONGRESS ON THE NEED FOR COORDINATION OF NONPROLIFERATION PROGRAMS.**

It is the sense of Congress that there should be clear and effective coordination among—

(1) the Nuclear Cities Initiative;

(2) the Initiatives for Proliferation Prevention program;

(3) the Cooperative Threat Reduction programs;

(4) the Nuclear Materials Protection, Control, and Accounting Program; and

(5) the International Science and Technology Center program.

**SEC. 3175. LIMITATION ON USE OF FUNDS FOR INTERNATIONAL NUCLEAR SAFETY PROGRAM.**

Amounts authorized to be appropriated or otherwise made available by this title for the Department of Energy for fiscal year 2001 for the International Nuclear Safety Program in the former Soviet Union and Eastern Europe shall be available only for purposes of reactor safety upgrades and training relating to nuclear operator and reactor safety.

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## j. National Defense Authorization Act for Fiscal Year 2000

**Partial text of Public Law 106–65 [S. 1059], 113 Stat. 512, approved October 5, 1999; as amended by Public Law 106–398 [Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001; H.R. 5408, enacted by reference in H.R. 4205], 114 Stat. 1654, approved October 30, 2000; and Public Law 107–107 [National Defense Authorization Act for Fiscal Year 2002; S. 1438], 115 Stat. 1012, approved December 28, 2001**

A BILL To authorize appropriations for fiscal year 2000 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 2000".

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## DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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## TITLE XIV—PROLIFERATION AND EXPORT CONTROLS

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**SEC. 1401. ADHERENCE OF PEOPLE'S REPUBLIC OF CHINA TO MISSILE TECHNOLOGY CONTROL REGIME.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should take all actions appropriate to obtain a bilateral agreement with the People's Republic of China to adhere to the Missile Technology Control Regime (MTCR) and the MTCR Annex; and

(2) the People's Republic of China should not be permitted to join the Missile Technology Control Regime as a member without having—

(A) agreed to the Missile Technology Control Regime and the specific provisions of the MTCR Annex;

(B) demonstrated a sustained and verified record of performance with respect to the nonproliferation of missiles and missile technology; and

(C) adopted an effective export control system for implementing guidelines under the Missile Technology Control Regime and the MTCR Annex.

(b) REPORT REQUIRED.—Not later than January 31, 2000, the President shall transmit to Congress a report explaining—

(1) the policy and commitments that the People's Republic of China has stated on its adherence to the Missile Technology Control Regime and the MTCR Annex;

(2) the degree to which the People's Republic of China is complying with its stated policy and commitments on adhering to the Missile Technology Control Regime and the MTCR Annex; and

(3) actions taken by the United States to encourage the People's Republic of China to adhere to the Missile Technology Control Regime and the MTCR Annex.

(c) DEFINITIONS.—In this section:

(1) MISSILE TECHNOLOGY CONTROL REGIME.—The term "Missile Technology Control Regime" means the policy statement, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto.

(2) MTCR ANNEX.—The term "MTCR Annex" means the Guidelines and Equipment and Technology Annex of the Missile Technology Control Regime, and any amendments thereto.

**SEC. 1402. ANNUAL REPORT ON TRANSFERS OF MILITARILY SENSITIVE TECHNOLOGY TO COUNTRIES AND ENTITIES OF CONCERN.**

(a) ANNUAL REPORT.—Not later than March 30 of each year beginning in the year 2000 and ending in the year 2007, the President shall transmit to Congress a report on transfers to countries and entities of concern during the preceding calendar year of the most significant categories of United States technologies and technical information with potential military applications.

(b) CONTENTS OF REPORT.—The report required by subsection (a) shall include, at a minimum, the following:

(1) An assessment by the Director of Central Intelligence of efforts by countries and entities of concern to acquire technologies and technical information referred to in subsection (a) during the preceding calendar year.

(2) An assessment by the Secretary of Defense, in consultation with the Joint Chiefs of Staff and the Director of Central Intelligence, of the cumulative impact of licenses granted by the United States for exports of technologies and technical information referred to in subsection (a) to countries and entities of concern during the preceding 5-calendar year period on—

(A) the military capabilities of such countries and entities; and

(B) countermeasures that may be necessary to overcome the use of such technologies and technical information.

(3) An audit by the Inspectors General of the Departments of Defense, State, Commerce, and Energy, in consultation with the Director of Central Intelligence and the Director of the Federal Bureau of Investigation, of the policies and procedures of the United States Government with respect to the export of technologies and technical information referred to in subsection (a) to countries and entities of concern.

(4)[1] The status of the implementation or other disposition of recommendations included in reports of audits by Inspectors General that have been set forth in a previous annual report under this section pursuant to paragraph (3).

(c) ADDITIONAL REQUIREMENT FOR FIRST REPORT.—The first annual report required by subsection (a) shall include an assessment by the Inspectors General of the Departments of State, Defense, Commerce, and the Treasury and the Inspector General of the Central Intelligence Agency of the adequacy of current export controls and counterintelligence measures to protect against the acquisition by countries and entities of concern of United States technology and technical information referred to in subsection (a).

(d) SUPPORT OF OTHER AGENCIES.—Upon the request of the officials responsible for preparing the assessments required by subsection (b), the heads of other departments and agencies shall make available to those officials all information necessary to carry out the requirements of this section.

(e) CLASSIFIED AND UNCLASSIFIED REPORTS.—Each report required by this section shall be submitted in classified form and unclassified form.

(f) DEFINITION.—As used in this section, the term "countries and entities of concern" means—

(1) any country the government of which the Secretary of State has determined, for purposes of section 6(j) of the Export Administration Act of 1979 or other applicable law, to have repeatedly provided support for acts of international terrorism;

(2) any country that—

(A) has detonated a nuclear explosive device (as defined in section 830(4) of the Nuclear Proliferation Prevention Act of 1994 (22 U.S.C. 6305(4));[2] and

(B) is not a member of the North Atlantic Treaty Organization; and

(3) any entity that—

(A) is engaged in international terrorism or activities in preparation thereof; or

(B) is directed or controlled by the government of a country described in paragraph (1) or (2).

**SEC. 1403. RESOURCES FOR EXPORT LICENSE FUNCTIONS.**

(a) OFFICE OF DEFENSE TRADE CONTROLS.—

(1) IN GENERAL.—The Secretary of State shall take the necessary steps to ensure that, in any fiscal year, adequate resources are allocated to the functions of the Office of Defense Trade Controls of the Department of State relating to the review and processing of export license applications so as to ensure that those functions are performed in a thorough and timely manner.

(2) AVAILABILITY OF EXISTING APPROPRIATIONS.—The Secretary of State shall take the necessary steps to ensure that those funds made available under the heading "Administration

[1] Sec. 1204 of the Appendix of Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (H.R. 5408, as enacted by Public Law 106–398; 114 Stat. 1654A–325) added para. (4).

[2] Sec. 1048(g)(7) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1228) struck out "3201 note" and inserted in lieu thereof "6305(4)".

of Foreign Affairs, Diplomatic and Consular Programs" in title IV of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999, as contained in the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277) are made available, upon the enactment of this Act, to the Office of Defense Trade Controls of the Department of State to carry out the purposes of the Office.

(b) DEFENSE THREAT REDUCTION AGENCY.—The Secretary of Defense shall take the necessary steps to ensure that, in any fiscal year, adequate resources are allocated to the functions of the Defense Threat Reduction Agency of the Department of Defense relating to the review of export license applications so as to ensure that those functions are performed in a thorough and timely manner.

(c) UPDATING OF STATE DEPARTMENT REPORT.—Not later than March 1, 2000, the Secretary of State, in consultation with the Secretary of Defense and the Secretary of Commerce, shall transmit to Congress a report updating the information reported to Congress under section 1513(d)(3) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (22 U.S.C. 2778 note).

**SEC. 1404. SECURITY IN CONNECTION WITH SATELLITE EXPORT LICENSING.**

As a condition of the export license for any satellite to be launched in a country subject to section 1514 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (22 U.S.C. 2778 note), the Secretary of State shall require the following:

(1) That the technology transfer control plan required by section 1514(a)(1) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (22 U.S.C. 2778 note) be prepared by the Department of Defense and the licensee, and that the plan set forth enhanced security arrangements for the launch of the satellite, both before and during launch operations.

(2) That each person providing security for the launch of that satellite—

(A) report directly to the launch monitor with regard to issues relevant to the technology transfer control plan;

(B) have received appropriate training in the International Trafficking in Arms Regulations (hereafter in this title referred to as "ITAR").

(C) have significant experience and expertise with satellite launches; and

(D) have been investigated in a manner at least as comprehensive as the investigation required for the issuance of a security clearance at the level designated as "Secret".

(3) That the number of such persons providing security for the launch of the satellite shall be sufficient to maintain 24-hour security of the satellite and related launch vehicle and other sensitive technology.

(4) That the licensee agree to reimburse the Department of Defense for all costs associated with the provision of security for the launch of the satellite.

**SEC. 1405. REPORTING OF TECHNOLOGY TRANSMITTED TO PEOPLE'S REPUBLIC OF CHINA AND OF FOREIGN LAUNCH SECURITY VIOLATIONS.**

(a) MONITORING OF INFORMATION.—The Secretary of Defense shall require that space launch monitors of the Department of Defense assigned to monitor launches in the People's Republic of China maintain records of all information authorized to be transmitted to the People's Republic of China with regard to each space launch that the monitors are responsible for monitoring, including copies of any documents authorized for such transmission, and reports on launch-related activities.

(b) TRANSMISSION TO OTHER AGENCIES.—The Secretary of Defense shall ensure that records under subsection (a) are transmitted on a current basis to appropriate elements of the Department of Defense and to the Department of State, the Department of Commerce, and the Central Intelligence Agency.

(c) RETENTION OF RECORDS.—Records described in subsection (a) shall be retained for at least the period of the statute of limitations for violations of the Arms Export Control Act.

(d) GUIDELINES.—The Secretary of Defense shall prescribe guidelines providing space launch monitors of the Department of Defense with the responsibility and the ability to report serious security violations, problems, or other issues at an overseas launch site directly to the headquarters office of the responsible Department of Defense component.

**SEC. 1406. REPORT ON NATIONAL SECURITY IMPLICATIONS OF EXPORTING HIGH-PERFORMANCE COMPUTERS TO THE PEOPLE'S REPUBLIC OF CHINA.**

(a) REVIEW.—The President, in consultation with the Secretary of Defense and the Secretary of Energy, shall conduct a comprehensive review of the national security implications of exporting high-performance computers to the People's Republic of China. To the extent that such testing has not already been conducted by the Government, the President, as part of the review, shall conduct empirical testing of the extent to which national security-related operations can be performed using clustered, massively-parallel processing or other combinations of computers.

(b) REPORT.—The President shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the results of the review conducted under subsection (a). The report shall be submitted not later than 6 months after the date of the enactment of this Act in classified and unclassified form and shall be updated not later than February 1 of each of the years 2001 through 2004.

**SEC. 1407. END-USE VERIFICATION FOR USE BY PEOPLE'S REPUBLIC OF CHINA OF HIGH-PERFORMANCE COMPUTERS.**

(a) REVISED HPC VERIFICATION SYSTEM.—The President shall seek to enter into an agreement with the People's Republic of China to revise the existing verification system with the People's Republic of China with respect to end-use verification for high-performance computers exported or to be exported to the People's Republic of China so as to provide for an open and transparent system providing for effective end-use verification for such computers.

The President shall transmit a copy of any such agreement to Congress.

(b) DEFINITION.—As used in this section and section 1406, the term "high-performance computer" means a computer which, by virtue of its composite theoretical performance level, would be subject to section 1211 of the National Defense Authorization Act for Fiscal Year 1998 (50 U.S.C. App. 2404 note).

(c) ADJUSTMENT OF COMPOSITE THEORETICAL PERFORMANCE LEVELS FOR POST-SHIPMENT VERIFICATION.—Section 1213 of the National Defense Authorization Act for Fiscal Year 1998 (50 U.S.C. App. 2404 note) is amended * * *

**SEC. 1408. ENHANCED MULTILATERAL EXPORT CONTROLS.**

(a) NEW INTERNATIONAL CONTROLS.—The President shall seek to establish new enhanced international controls on technology transfers that threaten international peace and United States national security.

(b) IMPROVED SHARING OF INFORMATION.—The President shall take appropriate actions to improve the sharing of information by nations that are major exporters of technology so that the United States can track movements of technology covered by the Wassenaar Arrangement and enforce technology controls and re-export requirements for such technology.

(c) DEFINITION.—As used in this section, the term "Wassenaar Arrangement" means the multilateral export control regime covering conventional armaments and sensitive dual-use goods and technologies that was agreed to by 33 co-founding countries in July 1996 and began operation in September 1996.

**SEC. 1409. ENHANCEMENT OF ACTIVITIES OF DEFENSE THREAT REDUCTION AGENCY.**

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations to—

(1) authorize the personnel of the Defense Threat Reduction Agency (DTRA) who monitor satellite launch campaigns overseas to suspend such campaigns at any time if the suspension is required for purposes of the national security of the United States;

(2) ensure that persons assigned as space launch campaign monitors are provided sufficient training and have adequate experience in the regulations prescribed by the Secretary of State known as the ITAR and have significant experience and expertise with satellite technology, launch vehicle technology, and launch operations technology;

(3) ensure that adequate numbers of such monitors are assigned to space launch campaigns so that 24-hour, 7-day per week coverage is provided;

(4) take steps to ensure, to the maximum extent possible, the continuity of service by monitors for the entire space launch campaign period (from satellite marketing to launch and, if necessary, completion of a launch failure analysis);

(5) adopt measures designed to make service as a space launch campaign monitor an attractive career opportunity;

(6) allocate funds and other resources to the Agency at levels sufficient to prevent any shortfalls in the number of such personnel;

(7) establish mechanisms in accordance with the provisions of section 1514(a)(2)(A) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2175; 22 U.S.C. 2778 note) that provide for—

(A) the payment to the Department of Defense by the person or entity receiving the launch monitoring services concerned, before the beginning of a fiscal year, of an amount equal to the amount estimated to be required by the Department to monitor the launch campaigns during that fiscal year;

(B) the reimbursement of the Department of Defense, at the end of each fiscal year, for amounts expended by the Department in monitoring the launch campaigns in excess of the amount provided under subparagraph (A); and

(C) the reimbursement of the person or entity receiving the launch monitoring services if the amount provided under subparagraph (A) exceeds the amount actually expended by the Department of Defense in monitoring the launch campaigns;

(8) review and improve guidelines on the scope of permissible discussions with foreign persons regarding technology and technical information, including the technology and technical information that should not be included in such discussions;

(9) provide, in conjunction with other Federal agencies, on at least an annual basis, briefings to the officers and employees of United States commercial satellite entities on United States export license standards, guidelines, and restrictions, and encourage such officers and employees to participate in such briefings;

(10) establish a system for—

(A) the preparation and filing by personnel of the Agency who monitor satellite launch campaigns overseas of detailed reports of all relevant activities observed by such personnel in the course of monitoring such campaigns;

(B) the systematic archiving of reports filed under subparagraph (A); and

(C) the preservation of such reports in accordance with applicable laws; and

(11) establish a counterintelligence program within the Agency as part of its satellite launch monitoring program.

(b) ANNUAL REPORT ON IMPLEMENTATION OF SATELLITE TECHNOLOGY SAFEGUARDS.—(1) The Secretary of Defense and the Secretary of State shall each submit to Congress each year, as part of the annual report for that year under section 1514(a)(8) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, the following:

(A) A summary of the satellite launch campaigns and related activities monitored by the Defense Threat Reduction Agency during the preceding fiscal year.

(B) A description of any license infractions or violations that may have occurred during such campaigns and activities.

(C) A description of the personnel, funds, and other resources dedicated to the satellite launch monitoring program of the Agency during that fiscal year.

(D) An assessment of the record of United States satellite makers in cooperating with Agency monitors, and in complying with United States export control laws, during that fiscal year.

(2) Each report under paragraph (1) shall be submitted in classified form and unclassified form.

**SEC. 1410. TIMELY NOTIFICATION OF LICENSING DECISIONS BY THE DEPARTMENT OF STATE.**

Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall prescribe regulations to provide timely notice to the manufacturer of a commercial satellite of United States origin of the final determination of the decision on the application for a license involving the overseas launch of such satellite.

**SEC. 1411. ENHANCED INTELLIGENCE CONSULTATION ON SATELLITE LICENSE APPLICATIONS.**

(a) CONSULTATION DURING REVIEW OF APPLICATIONS.—The Secretary of State and Secretary of Defense, as appropriate, shall consult with the Director of Central Intelligence during the review of any application for a license involving the overseas launch of a commercial satellite of United States origin. The purpose of the consultation is to assure that the launch of the satellite, if the license is approved, will meet the requirements necessary to protect the national security interests of the United States.

(b) ADVISORY GROUP.—(1) The Director of Central Intelligence shall establish within the intelligence community an advisory group to provide information and analysis to Congress, and to appropriate departments and agencies of the Federal Government, on the national security implications of granting licenses involving the overseas launch of commercial satellites of United States origin.

(2) The advisory group shall include technically-qualified representatives of the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, the National Air Intelligence Center, and the Department of State Bureau of Intelligence and Research and representatives of other elements of the intelligence community with appropriate expertise.

(3) In addition to the duties under paragraph (1), the advisory group shall—

(A) review, on a continuing basis, information relating to transfers of satellite, launch vehicle, or other technology or knowledge with respect to the course of the overseas launch of commercial satellites of United States origin; and

(B) analyze the potential impact of such transfers on the space and military systems, programs, or activities of foreign countries.

(4) The Director of the Nonproliferation Center of the Central Intelligence Agency shall serve as chairman of the advisory group.

(5)(A) The advisory group shall, upon request (but not less often than annually), submit reports on the matters referred to in paragraphs (1) and (3) to the appropriate committees of Congress and

to appropriate departments and agencies of the Federal Government.

(B) The first annual report under subparagraph (A) shall be submitted not later than one year after the date of the enactment of this Act.

(c) INTELLIGENCE COMMUNITY DEFINED.—In this section, the term "intelligence community" has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

**SEC. 1412. INVESTIGATIONS OF VIOLATIONS OF EXPORT CONTROLS BY UNITED STATES SATELLITE MANUFACTURERS.**

(a) NOTICE TO CONGRESS OF INVESTIGATIONS.—The President shall promptly notify the appropriate committees of Congress whenever an investigation is undertaken by the Department of Justice of—

(1) an alleged violation of United States export control laws in connection with a commercial satellite of United States origin; or

(2) an alleged violation of United States export control laws in connection with an item controlled under section 38 of the Arms Export Control Act (22 U.S.C. 2778) that is likely to cause significant harm or damage to the national security interests of the United States.

(b) NOTICE TO CONGRESS OF CERTAIN EXPORT WAIVERS.—The President shall promptly notify the appropriate committees of Congress whenever an export waiver pursuant to section 902 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 2151 note) is granted on behalf of any United States person that is the subject of an investigation described in subsection (a). The notice shall include a justification for the waiver.

(c) EXCEPTION.—The requirements in subsections (a) and (b) shall not apply if the President determines that notification of the appropriate committees of Congress under such subsections would jeopardize an on-going criminal investigation. If the President makes such a determination, the President shall provide written notification of such determination to the Speaker of the House of Representatives, the majority leader of the Senate, the minority leader of the House of Representatives, and the minority leader of the Senate. The notification shall include a justification for the determination.

(d) IDENTIFICATION OF PERSONS SUBJECT TO INVESTIGATION.—The Secretary of State and the Attorney General shall develop appropriate mechanisms to identify, for the purposes of processing export licenses for commercial satellites, persons who are the subject of an investigation described in subsection (a).

(e) PROTECTION OF CLASSIFIED AND OTHER SENSITIVE INFORMATION.—The appropriate committees of Congress shall ensure that appropriate procedures are in place to protect from unauthorized disclosure classified information, information relating to intelligence sources and methods, and sensitive law enforcement information that is furnished to those committees pursuant to this section.

(f) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to modify or supersede any other requirement to report

information on intelligence activities to Congress, including the requirement under section 501 of the National Security Act of 1947 (50 U.S.C. 413).

(g) DEFINITIONS.—As used in this section:

(1) The term "appropriate committees of Congress" means the following:

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

(B) The Committee on Armed Services, the Committee on International Relations, and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) The term "United States person" means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

## TITLE XV—ARMS CONTROL AND COUNTERPROLIFERATION MATTERS

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### SEC. 1501. REVISION TO LIMITATION ON RETIREMENT OR DISMANTLEMENT OF STRATEGIC NUCLEAR DELIVERY SYSTEMS.

(a) REVISED LIMITATION.—Subsections (a) and (b) of section 1302 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1948) are amended to read as follows: * * *

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (c)(2), by striking "during the strategic delivery systems retirement limitation period" and inserting "during the fiscal year during which the START II Treaty enters into force"; and

(2) by striking subsection (g).

### SEC. 1502. SENSE OF CONGRESS ON STRATEGIC ARMS REDUCTIONS.

It is the sense of Congress that, in negotiating a START III Treaty with the Russian Federation, or any other arms control treaty with the Russian Federation that would require reductions in United States strategic nuclear forces, that—

(1) the strategic nuclear forces and nuclear modernization programs of the People's Republic of China and every other nation possessing nuclear weapons should be taken into full consideration in the negotiation of such treaty; and

(2) the reductions in United States strategic nuclear forces under such a treaty should not be to such an extent as to impede the capability of the United States to respond militarily to any militarily significant increase in the threat to United States security or strategic stability posed by the People's Republic of China and any other nation.

**SEC. 1503. REPORT ON STRATEGIC STABILITY UNDER START III.**

(a) REPORT.—Not later than September 1, 2000, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report, to be prepared in consultation with the Director of Central Intelligence, on the stability of the future strategic nuclear posture of the United States for deterring the Russian Federation and other potential nuclear adversaries.

(b) MATTERS TO BE INCLUDED.—The Secretary shall, at a minimum, include in the report the following:

(1) A discussion of the policy defining the deterrence and military-political objectives of the United States against potential nuclear adversaries.

(2) A discussion of the military requirements for United States nuclear forces, the force structure and capabilities necessary to meet those requirements, and how they relate to the achievement of the objectives identified under paragraph (1).

(3) A projection of the strategic nuclear force posture of the United States and the Russian Federation that is anticipated under a further Strategic Arms Reduction Treaty (referred to as "START III"), and an explanation of whether and how United States nuclear forces envisioned under that posture would be capable of meeting the military sufficiency requirements identified under paragraph (2).

(4) The Secretary's assessment of Russia's nuclear force posture under START III compared to its present force, including its size, vulnerability, and capability for launch on tactical warning, and an assessment of whether strategic stability would be enhanced or diminished under START III, including any stabilizing and destabilizing factors and possible incentives or disincentives for Russia to launch a first strike, or otherwise use nuclear weapons, against the United States in a possible future crisis.

(5) The Secretary's assessment of the nuclear weapon capabilities of China and other potential nuclear weapon "rogue" states in the foreseeable future, and an assessment of the effect of these capabilities on strategic stability, including their ability and inclination to use nuclear weapons against the United States in a possible future crisis.

(6) The Secretary's assessment of whether asymmetries between the United States and Russia, including doctrine, nonstrategic nuclear weapons, and active and passive defenses, are likely to erode strategic stability in the foreseeable future.

(7) Any other matters the Secretary believes are important to such a consideration of strategic stability under future nuclear postures.

(c) CLASSIFICATION.—The report shall be submitted in classified form and, to the extent possible, in unclassified form.

**SEC. 1504. COUNTERPROLIFERATION PROGRAM REVIEW COMMITTEE.**

(a) EXTENSION OF COMMITTEE.—Subsection (f) of section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note) is amended * * *

(b) EXECUTIVE SECRETARY OF THE COMMITTEE.—Paragraph (5) of subsection (a) of that section is amended * * *

(c) EARLIER DEADLINE FOR ANNUAL REPORT ON COUNTER-PROLIFERATION ACTIVITIES AND PROGRAMS.—Section 1503(a) of the National Defense Authorization Act for Fiscal Year 1995 (22 U.S.C. 2751 note) is amended * * *

**SEC. 1505. SUPPORT OF UNITED NATIONS-SPONSORED EFFORTS TO INSPECT AND MONITOR IRAQI WEAPONS ACTIVITIES.**

(a) LIMITATION ON AMOUNT OF ASSISTANCE IN FISCAL YEAR 2000.—The total amount of the assistance for fiscal year 2000 that is provided by the Secretary of Defense under section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) as activities of the Department of Defense in support of activities under that Act may not exceed $15,000,000.

(b) EXTENSION OF AUTHORITY TO PROVIDE ASSISTANCE.—Subsection (f) of section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) is amended * * *

(c) REFERENCES TO UNITED NATIONS SPECIAL COMMISSION ON IRAQ AND TO FISCAL LIMITATIONS.—(1) Subsection (b)(2) of such section is amended * * *

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## k. Strom Thurmond National Defense Authorization Act for Fiscal Year 1999

**Partial text of Public Law 105–261 [H.R. 3616], 112 Stat. 1920, approved October 17, 1998; as amended by Public Law 105–277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; Public Law 106–65 [National Defense Authorization Act for Fiscal Year 2000; S. 1059], 113 Stat. 512, approved October 5, 1999; and Public Law 106–113 [H.R. 3427, enacted by reference in H.R. 3194], 113 Stat. 1501, approved November 29, 1999**

AN ACT To authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; FINDINGS.**

(a) SHORT TITLE.—This Act may be cited as the "Strom Thurmond National Defense Authorization Act for Fiscal Year 1999".

(b) * * *

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### DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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### TITLE XV—ARMS CONTROL MATTERS

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### Subtitle A—Arms Control Matters

**SEC. 1501. ONE-YEAR EXTENSION OF LIMITATION ON RETIREMENT OR DISMANTLEMENT OF STRATEGIC NUCLEAR DELIVERY SYSTEMS.**

Section 1302 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1948) is amended—* * *

**SEC. 1502.[1] TRANSMISSION OF EXECUTIVE BRANCH REPORTS PROVIDING CONGRESS WITH CLASSIFIED SUMMARIES OF ARMS CONTROL DEVELOPMENTS.**

(a) REPORTING REQUIREMENT.—The Director of the Arms Control and Disarmament Agency (or the Secretary of State, if the Arms

[1] 22 U.S.C. 2593a note.

Control and Disarmament Agency becomes an element of the Department of State) shall transmit to the Committee on Armed Services[2] of the House of Representatives on a periodic basis reports containing classified summaries of arms control developments.

(b) CONTENTS OF REPORTS.—The reports required by subsection (a) shall include information reflecting the activities of forums established to consider issues relating to treaty implementation and treaty compliance.

**SEC. 1503. REPORT ON ADEQUACY OF EMERGENCY COMMUNICATIONS CAPABILITIES BETWEEN UNITED STATES AND RUSSIA.**

Not later than 3 months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the status and adequacy of current direct communications capabilities between the governments of the United States and Russia. The report shall identify each existing direct communications link between those governments and each such link that is designed to be used, or is available to be used, in an emergency situation. The Secretary shall describe in the report any shortcomings with the existing communications capabilities and shall include such proposals as the Secretary considers appropriate to improve those capabilities. In considering improvements to propose, the Secretary shall assess the feasibility and desirability of establishing a direct communications link between the commanders of appropriate United States unified and specified commands, including the United States Space Command and the United States Strategic Command, and their Russian counterparts.

**SEC. 1504. RUSSIAN NONSTRATEGIC NUCLEAR WEAPONS.**

(a) FINDINGS.—The Congress makes the following findings:

(1) The 7,000 to 12,000 or more nonstrategic (or "tactical") nuclear weapons estimated by the United States Strategic Command to be in the Russian arsenal may present the greatest threat of sale or theft of a nuclear warhead in the world today.

(2) As the number of deployed strategic warheads in the Russian and United States arsenals declines to just a few thousand under the START accords, Russia's vast superiority in tactical nuclear warheads—many of which have yields equivalent to strategic nuclear weapons—could become strategically destabilizing.

(3) While the United States has unilaterally reduced its inventory of tactical nuclear weapons by nearly 90 percent since the end of the Cold War, Russia is behind schedule in implementing the steep tactical nuclear arms reductions pledged by former Soviet President Gorbachev in 1991 and Russian President Yeltsin in 1992, perpetuating the dangers from Russia's tactical nuclear stockpile.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should call on Russia to expedite reduction of its tactical

[2] Sec. 1067(3) of Public Law 106–65 (113 Stat. 774) struck out "Committee on National Security" and inserted in lieu thereof "Committee on Armed Services".

nuclear arsenal in accordance with the promises made in 1991 and 1992.

(c) REPORT.—Not later than March 15, 1999, the Secretary of Defense shall submit to Congress a report on the nonstrategic nuclear weapons of Russia. The report shall include—

(1) estimates regarding the current numbers, types, yields, viability, and locations of those weapons;

(2) an assessment of the strategic implications of Russia's nonstrategic arsenal, including the potential use of those weapons in a strategic role or the use of their components in strategic nuclear systems and the potential of Russian superiority in tactical nuclear weapons to destabilize the overall nuclear balance as strategic nuclear weapons are sharply reduced under the START accords;

(3) an assessment of the extent of the current threat of theft, sale, or unauthorized use of the warheads of those weapons, including an analysis of Russian command and control as it concerns the use of tactical nuclear weapons;

(4) a summary of past, current, and planned efforts to work cooperatively with Russia to account for, secure, and reduce Russia's stockpile of tactical nuclear weapons and associated fissile material;

(5) a summary of how the United States would prevent, or plans to cope militarily with, scenarios in which a deterioration in relations with Moscow causes Russia to redeploy tactical nuclear weapons or in which Russia threatens to employ, or actually employs, tactical nuclear weapons in a local or regional conflict involving the United States or allies of the United States; and

(6) an assessment of the steps that could be taken by the United States to enhance military preparedness in order (A) to deter any potential attempt by Russia to possibly exploit its advantage in tactical nuclear weapons through coercive "nuclear diplomacy" or on the battlefield, or (B) to counter Russia if Russia should make such an attempt to exploit its advantage in tactical nuclear weapons.

(d) VIEWS.—The Secretary of Defense shall include in the report under subsection (c) the views of the Director of Central Intelligence and of the commander of the United States Strategic Command.

## Subtitle B—Satellite Export Controls

**SEC. 1511.[3] SENSE OF CONGRESS.**

It is the sense of Congress that—

(1) United States business interests must not be placed above United States national security interests;

(2) United States foreign policy and the policies of the United States regarding commercial relations with other countries should affirm the importance of observing and adhering to the Missile Technology Control Regime (MTCR);

[3] 22 U.S.C. 2778 note.

(3) the United States should encourage universal observance of the Guidelines to the Missile Technology Control Regime;

(4) the exportation or transfer of advanced communication satellites and related technologies from United States sources to foreign recipients should not increase the risks to the national security of the United States;

(5) due to the military sensitivity of the technologies involved, it is in the national security interests of the United States that United States satellites and related items be subject to the same export controls that apply under United States law and practices to munitions;

(6) the United States should not issue any blanket waiver of the suspensions contained in section 902 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246), regarding the export of satellites of United States origin intended for launch from a launch vehicle owned by the People's Republic of China;

(7) the United States should pursue policies that protect and enhance the United States space launch industry; and

(8) the United States should not export to the People's Republic of China missile equipment or technology that would improve the missile or space launch capabilities of the People's Republic of China.

**SEC. 1512.[4] CERTIFICATION OF EXPORTS OF MISSILE EQUIPMENT OR TECHNOLOGY TO CHINA.**

(a)[5] CERTIFICATION.—The President shall certify to the Congress at least 15 days in advance of any export to the People's Republic of China of missile equipment or technology (as defined in section 74 of the Arms Export Control Act (22 U.S.C. 2797c)) that—

(1) such export is not detrimental to the United States space launch industry; and

(2) the missile equipment or technology, including any indirect technical benefit that could be derived from such export, will not measurably improve the missile or space launch capabilities of the People's Republic of China.

(b)[5] EXCEPTION.—The certification requirement contained in subsection (a) shall not apply to the export of inertial reference units and components in manned civilian aircraft or supplied as spare or replacement parts for such aircraft.

**SEC. 1513.[6] SATELLITE CONTROLS UNDER THE UNITED STATES MUNITIONS LIST.**

(a) CONTROL OF SATELLITES ON THE UNITED STATES MUNITIONS LIST.—Notwithstanding any other provision of law, all satellites and related items that are on the Commerce Control List of dual-use items in the Export Administration Regulations (15 CFR part

[4] 22 U.S.C. 2778 note. On May 10, 1999, the President certified to Congress "that the export to the People's Republic of China of satellite fuels and separation systems for the U.S.-origin Iridium commercial communications satellite program: (1) is not detrimental to the United States space launch industry; and (2) the material and equipment, including any indirect technical benefit that could be derived from such export, will not measurably improve the missile or space launch capabilities of the People's Republic of China." (*Congressional Record,* May 11, 1999, page S5029).

[5] Sec. 146 of Public Law 105–277 (112 Stat. 2681–610) struck out "The" and inserted in lieu thereof "(a) CERTIFICATION.—The"; and added a new subsec. (b).

[6] 22 U.S.C. 2778 note.

730 et seq.) on the date of the enactment of this Act shall be transferred to the United States Munitions List and controlled under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(b) DEFENSE TRADE CONTROLS REGISTRATION FEES.—Section 45 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2717) is amended— * * *

(c) EFFECTIVE DATE.—(1) Subsection (a) shall take effect on March 15, 1999, and shall not apply to any export license issued before such effective date or to any export license application made under the Export Administration Regulations before such effective date.

(2) The amendments made by subsection (b) shall be effective as of October 1, 1998.

(d) REPORT.—Not later than January 1, 1999, the Secretary of State, in consultation with the Secretary of Defense and the Secretary of Commerce, shall submit to Congress a report containing—

(1) a detailed description of the plans of the Department of State to implement the requirements of this section, including any organizational changes that are required and any Executive orders or regulations that may be required;

(2) an identification and explanation of any steps that should be taken to improve the license review process for exports of the satellites and related items described in subsection (a), including measures to shorten the timelines for license application reviews, and any measures relating to the transparency of the license review process and dispute resolution procedures;

(3) an evaluation of the adequacy of resources available to the Department of State, including fiscal and personnel resources, to carry out the additional activities required by this section; and

(4) any recommendations for additional actions, including possible legislation, to improve the export licensing process under the Arms Export Control Act for the satellites and related items described in subsection (a).

**SEC. 1514.[7] NATIONAL SECURITY CONTROLS ON SATELLITE EXPORT LICENSING.**

(a) ACTIONS BY THE PRESIDENT.—Notwithstanding any other provision of law, the President shall take such actions as are necessary to implement the following requirements for improving national security controls in the export licensing of satellites and related items:

(1) MANDATORY TECHNOLOGY CONTROL PLANS.—All export licenses shall require a technology transfer control plan approved by the Secretary of Defense and an encryption technology transfer control plan approved by the Director of the National Security Agency.

(2) MANDATORY MONITORS AND REIMBURSEMENT.—

(A) MONITORING OF PROPOSED FOREIGN LAUNCH OF SATELLITES.—In any case in which a license is approved for the export of a satellite or related items for launch in a foreign country, the Secretary of Defense shall monitor all

[7] 22 U.S.C. 2778 note.

aspects of the launch in order to ensure that no unauthorized transfer of technology occurs, including technical assistance and technical data. The costs of such monitoring services shall be fully reimbursed to the Department of Defense by the person or entity receiving such services. All reimbursements received under this subparagraph shall be credited to current appropriations available for the payment of the costs incurred in providing such services.

(B) CONTENTS OF MONITORING.—The monitoring under subparagraph (A) shall cover, but not be limited to—

(i) technical discussions and activities, including the design, development, operation, maintenance, modification, and repair of satellites, satellite components, missiles, other equipment, launch facilities, and launch vehicles;

(ii) satellite processing and launch activities, including launch preparation, satellite transportation, integration of the satellite with the launch vehicle, testing and checkout prior to launch, satellite launch, and return of equipment to the United States;

(iii) activities relating to launch failure, delay, or cancellation, including post-launch failure investigations; and

(iv) all other aspects of the launch.

(3) MANDATORY LICENSES FOR CRASH-INVESTIGATIONS.—In the event of the failure of a launch from a foreign country of a satellite of United States origin—

(A) the activities of United States persons or entities in connection with any subsequent investigation of the failure are subject to the controls established under section 38 of the Arms Export Control Act, including requirements for licenses issued by the Secretary of State for participation in that investigation;

(B) officials of the Department of Defense shall monitor all activities associated with the investigation to insure against unauthorized transfer of technical data or services; and

(C) the Secretary of Defense shall establish and implement a technology transfer control plan for the conduct of the investigation to prevent the transfer of information that could be used by the foreign country to improve its missile or space launch capabilities.

(4) MANDATORY NOTIFICATION AND CERTIFICATION.—All technology transfer control plans for satellites or related items shall require any United States person or entity involved in the export of a satellite of United States origin or related items to notify the Department of Defense in advance of all meetings and interactions with any foreign person or entity providing launch services and require the United States person or entity to certify after the launch that it has complied with this notification requirement.

(5) MANDATORY INTELLIGENCE COMMUNITY REVIEW.—The Secretary of Commerce and the Secretary of State shall provide to the Secretary of Defense and the Director of Central Intelligence copies of all export license applications and technical assistance agreements submitted for approval in connection with launches in foreign countries of satellites to verify the legitimacy of the stated end-user or end-users.

(6) MANDATORY SHARING OF APPROVED LICENSES AND AGREEMENTS.—The Secretary of State shall provide copies of all approved export licenses and technical assistance agreements associated with launches in foreign countries of satellites to the Secretaries of Defense and Energy, the Director of Central Intelligence, and the Director of the Arms Control and Disarmament Agency.

(7) MANDATORY NOTIFICATION TO CONGRESS ON LICENSES.—Upon issuing a license for the export of a satellite or related items for launch in a foreign country, the head of the department or agency issuing the license shall so notify Congress.

(8) MANDATORY REPORTING ON MONITORING ACTIVITIES.—The Secretary of Defense shall provide to Congress an annual report on the monitoring of all launches in foreign countries of satellites of United States origin.

(9) ESTABLISHING SAFEGUARDS PROGRAM.—The Secretary of Defense shall establish a program for recruiting, training, and maintaining a staff dedicated to monitoring launches in foreign countries of satellites and related items of United States origin.

(b) EXCEPTION.—This section shall not apply to the export of a satellite or related items for launch in, or by nationals of, a country that is a member of the North Atlantic Treaty Organization or that is a major non-NATO ally of the United States.

(c) EFFECTIVE DATE.—The President shall take the actions required by subsection (a) not later than 45 days after the date of the enactment of this Act.

**SEC. 1515.[8] REPORT ON EXPORT OF SATELLITES FOR LAUNCH BY PEOPLE'S REPUBLIC OF CHINA.**

(a) REQUIREMENT FOR REPORT.—Each report to Congress submitted pursuant to subsection (b) of section 902 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 2151 note; Public Law 101–246) to waive the restrictions contained in subsection (a) of that section on the export to the People's Republic of China of any satellite of United States origin or related items shall be accompanied by a detailed justification setting forth the following:

(1) A detailed description of all militarily sensitive characteristics integrated within, or associated with, the satellite.

(2) An estimate of the number of United States civilian contract personnel expected to be needed in country to carry out the proposed satellite launch.

(3)(A) A detailed description of the United States Government's plan to monitor the proposed satellite launch to ensure that no unauthorized transfer of technology occurs, together

[8] 22 U.S.C. 2778 note.

with an estimate of the number of officers and employees of the United States that are expected to be needed in country to carry out monitoring of the proposed satellite launch; and

(B) the estimated cost to the Department of Defense of monitoring the proposed satellite launch and the amount of such cost that is to be reimbursed to the department.

(4) The reasons why the proposed satellite launch is in the national security interest of the United States.

(5) The impact of the proposed export on employment in the United States, including the number of new jobs created in the United States, on a State-by-State basis, as a direct result of the proposed export.

(6) The number of existing jobs in the United States that would be lost, on a State-by-State basis, as a direct result of the proposed export not being licensed.

(7) The impact of the proposed export on the balance of trade between the United States and the People's Republic of China and on reducing the current United States trade deficit with the People's Republic of China.

(8) The impact of the proposed export on the transition of the People's Republic of China from a nonmarket economy to a market economy and the long-term economic benefit to the United States.

(9) The impact of the proposed export on opening new markets to United States-made products through the purchase by the People's Republic of China of United States-made goods and services not directly related to the proposed export.

(10) The impact of the proposed export on reducing acts, policies, and practices that constitute significant trade barriers to United States exports or foreign direct investment in the People's Republic of China by United States nationals.

(11) The increase that will result from the proposed export in the overall market share of the United States for goods and services in comparison to Japan, France, Germany, the United Kingdom, and Russia.

(12) The impact of the proposed export on the willingness of the People's Republic of China to modify its commercial and trade laws, practices, and regulations to make United States-made goods and services more accessible to that market.

(13) The impact of the proposed export on the willingness of the People's Republic of China to reduce formal and informal trade barriers and tariffs, duties, and other fees on United States-made goods and services entering that country.

(b) MILITARILY SENSITIVE CHARACTERISTICS DEFINED.—In this section, the term "militarily sensitive characteristics" includes antijamming capability, antennas, crosslinks, baseband processing, encryption devices, radiation-hardened devices, propulsion systems, pointing accuracy, kick motors, and other such characteristics as are specified by the Secretary of Defense.

**SEC. 1516.[9] RELATED ITEMS DEFINED.**

In this subtitle, the term "related items" means the satellite fuel, ground support equipment, test equipment, payload adapter or

[9] 22 U.S.C. 2778 note.

interface hardware, replacement parts, and non-embedded solid propellant orbit transfer engines described in the report submitted to Congress by the Department of State on February 6, 1998, pursuant to section 38(f) of the Arms Export Control Act (22 U.S.C. 2778(f)).

## Subtitle C—Other Export Control Matters

### SEC. 1521. AUTHORITY FOR EXPORT CONTROL ACTIVITIES OF THE DEPARTMENT OF DEFENSE.

(a) FUNCTIONS OF THE UNDER SECRETARY FOR POLICY.—Section 134(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary shall have responsibility for supervising and directing activities of the Department of Defense relating to export controls.".

(b) ESTABLISHMENT OF DEPUTY UNDER SECRETARY FOR TECHNOLOGY SECURITY POLICY.—(1) Chapter 4 of title 10, United States Code, is amended by inserting after section 134a the following new section:

### "§ 134b. Deputy Under Secretary of Defense for Technology Security Policy

"(a) There is in the Office of the Under Secretary of Defense for Policy a Deputy Under Secretary of Defense for Technology Security Policy.

"(b) The Deputy Under Secretary serves as the Director of the Defense Technology Security Administration (or any successor organization charged with similar responsibilities).

"(c) The principal duties of the Deputy Under Secretary are—

"(1) assisting the Under Secretary of Defense for Policy in supervising and directing the activities of the Department of Defense relating to export controls; and

"(2) assisting the Under Secretary of Defense for Policy in developing policies and positions regarding the appropriate export control policies and procedures that are necessary to protect the national security interests of the United States.

"(d) The Deputy Under Secretary shall perform such additional duties and exercise such authority as the Secretary of Defense may prescribe.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 134a the following new item: * * *

(c)[10] TIME FOR IMPLEMENTATION.—The Secretary of Defense shall complete the actions necessary to implement the amendment made by subsection (a) and to establish the office of Deputy Under Secretary of Defense for Technology Security Policy in accordance with section 134b of title 10, United States Code, as added by subsection (b), not later than 60 days after the date of the enactment of this Act.

(d)[10] REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the

[10] 10 U.S.C. 134 note.

Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the plans of the Secretary for implementing the amendments made by subsections (a) and (b). The report shall include the following:

(1) A description of any organizational changes that are to be made within the Department of Defense to implement those amendments.

(2) A description of the role of the Chairman of the Joint Chiefs of Staff in the export control activities of the Department of Defense after those subsections are implemented, together with a discussion of how that role compares to the Chairman's role in those activities before the implementation of those subsections.

**SEC. 1522.[11] RELEASE OF EXPORT INFORMATION BY DEPARTMENT OF COMMERCE TO OTHER AGENCIES FOR PURPOSE OF NATIONAL SECURITY ASSESSMENT.**

(a) RELEASE OF EXPORT INFORMATION.—The Secretary of Commerce shall, upon the written request of an official specified in subsection (c), transmit to that official any information relating to exports that is held by the Department of Commerce and is requested by that official for the purpose of assessing national security risks. The Secretary shall transmit such information within 10 business days after receiving such a request.

(b) NATURE OF INFORMATION.—The information referred to in subsection (a) includes information concerning—

(1) export licenses issued by the Department of Commerce;

(2) exports that were carried out under an export license issued by the Department of Commerce; and

(3) exports from the United States that were carried out without an export license.

(c) REQUESTING OFFICIALS.—The officials referred to in subsection (a) are the Secretary of State, the Secretary of Defense, the Secretary of Energy, and the Director of Central Intelligence. Each of those officials may delegate to any other official within their respective departments and agency the authority to request information under subsection (a).

**SEC. 1523.[12] NUCLEAR EXPORT REPORTING REQUIREMENT.**

(a) NOTIFICATION OF CONGRESS.—The President shall notify the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives[13] upon the granting of a license by the Nuclear Regulatory Commission for the export or reexport of any nuclear-related technology or equipment, including source material, special nuclear material, or equipment or material especially designed or prepared for the processing, use, or production of special nuclear material.

(b) APPLICABILITY.—The requirements of this section shall apply only to an export or reexport to a country that—

[11] 50 U.S.C. app. 2404 note.

[12] 42 U.S.C. 2155 note.

[13] Sec. 1135(1) of the Arms Control and Nonproliferation Act of 1999 (title XI of Appendix G (Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001) of Public Law 106–113, enacted by reference in sec. 1000(a)(7) of Public Law 106–113 (113 Stat. 1536)) struck out "Congress" and inserted in lieu thereof "the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives".

(1) the President has determined is a country that has detonated a nuclear explosive device; and

(2) is not a member of the North Atlantic Treaty Organization.

(c)[14] CONTENT OF NOTIFICATION.—The notification required pursuant to this section shall include—

(1) a detailed description of the articles or services to be exported or reexported, including a brief description of the capabilities of any article to be exported or reexported;

(2) an estimate of the number of officers and employees of the United States Government and of United States Government civilian contract personnel expected to be required in such country to carry out the proposed export or reexport;

(3) the name of each licensee expected to provide the article or service proposed to be sold and a description from the licensee of any offset agreements proposed to be entered into in connection with such sale (if known on the date of transmittal of such statement);

(4) the projected delivery dates of the articles or services to be exported or reexported; and

(5) the extent to which the recipient country in the previous two years has engaged in any of the actions specified in subparagraph (A), (B), or (C) of section 129(2) of the Atomic Energy Act of 1954.

**SEC. 1524.[15] EXECUTION OF OBJECTION AUTHORITY WITHIN THE DEPARTMENT OF DEFENSE.**

Section 1211 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1932) is amended * * *

## Subtitle D—Counterproliferation Matters

**SEC. 1531. ONE-YEAR EXTENSION OF COUNTERPROLIFERATION AUTHORITIES FOR SUPPORT OF UNITED NATIONS SPECIAL COMMISSION ON IRAQ.**

(a) AMOUNT AUTHORIZED FOR FISCAL YEAR 1999.—The total amount of assistance for fiscal year 1999 provided by the Secretary of Defense under section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) that is provided for activities of the Department of Defense in support of the United Nations Special Commission on Iraq, may not exceed $15,000,000.

(b) EXTENSION OF AUTHORITY TO PROVIDE ASSISTANCE.—Subsection (f) of section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) is amended * * *

**SEC. 1532. SENSE OF CONGRESS ON NUCLEAR TESTS IN SOUTH ASIA.**

The Congress—

(1) strongly condemns the decisions by the Governments of India and Pakistan to conduct nuclear tests in May 1998;

(2) calls for the Governments of India and Pakistan to commit not to conduct any additional nuclear tests;

[14] Sec. 1135(2) of Appendix G (Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001) of Public Law 106–113, enacted by reference in sec. 1000(a)(7) of Public Law 106–113 (113 Stat. 1536)) added subsec. (c).

[15] 50 U.S.C. app. 2404 note.

(3) urges the Governments of India and Pakistan to take immediate steps to reduce tensions between the two countries;

(4) urges India and Pakistan to engage in high-level dialogue aimed at reducing the likelihood of armed conflict, enacting confidence and security building measures, and resolving areas of dispute;

(5) commends all nations to take steps which will reduce tensions in South Asia, including appropriate measures to prevent the transfer of technology that could further exacerbate the arms race in South Asia, and thus avoid further deterioration of security there;

(6) calls upon the President, leaders of all nations, and the United Nations to encourage a diplomatic, negotiated solution between the Governments of India and Pakistan to promote peace and stability in South Asia and resolve the current impasse;

(7) encourages United States diplomatic leadership in assisting the Governments of India and Pakistan to seek a negotiated resolution of their 50-year conflict over the disputed territory in Kashmir;

(8) urges India and Pakistan to take immediate, binding, and verifiable steps to roll back their nuclear programs and come into compliance with internationally accepted norms regarding the proliferation of weapons of mass destruction; and

(9) urges the United States to reevaluate its bilateral relationship with India and Pakistan, in light of the new regional security realities in South Asia, with the goal of preventing further nuclear and ballistic missile proliferation, diffusing long-standing regional rivalries between India and Pakistan, and securing commitments from India and Pakistan which, if carried out, could result in a calibrated lifting of United States sanctions imposed under the Arms Export Control Act and the Nuclear Proliferation Prevention Act of 1994.

**SEC. 1533. REPORT ON REQUIREMENTS FOR RESPONSE TO INCREASED MISSILE THREAT IN ASIA-PACIFIC REGION.**

(a) STUDY.—The Secretary of Defense shall carry out a study of the architecture requirements for the establishment and operation of a theater ballistic missile defense system in the Asia-Pacific region that would have the capability to protect key regional allies of the United States.

(b) REPORT.—(1) Not later than January 1, 1999, the Secretary shall submit to the Committee on National Security of the House of Representatives and the Committee on Armed Services of the Senate a report containing—

(A) the results of the study conducted under subsection (a);

(B) the factors used to obtain such results; and

(C) a description of any United States missile defense system currently deployed or under development that could be transferred to key allies of the United States in the Asia-Pacific region to provide for their self-defense against limited ballistic missile attacks.

(2) The report shall be submitted in both classified and unclassified form.

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## l. National Defense Authorization Act for Fiscal Year 1998

**Partial text of Public Law 105–85 [H.R. 1119], 111 Stat. 1629, approved November 18, 1997; as amended by Public Law 105–261 [Strom Thurmond National Defense Authorization Act for Fiscal Year 1999; H.R. 3616], 112 Stat. 1920, approved October 17, 1998; Public Law 106–65 [National Defense Authorization Act for Fiscal Year 2000; S. 1059], 113 Stat. 512, approved October 5, 1999; and Public Law 106–398 [National Defense Authorization Act for Fiscal Year 2001; H.R. 5408, enacted by reference in H.R. 4205], 114 Stat. 1654, approved October 30, 2000**

AN ACT To authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1998".

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## DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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## TITLE XIII—ARMS CONTROL AND RELATED MATTERS

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**SEC. 1301. PRESIDENTIAL REPORT CONCERNING DETARGETING OF RUSSIAN STRATEGIC MISSILES.**

(a) REQUIRED REPORT.—Not later than January 1, 1998, the President shall submit to Congress a report concerning detargeting of Russian strategic missiles. The report shall address each of the following:

(1) Whether a Russian ICBM that was formerly, but is no longer, targeted at a site in the United States would be automatically retargeted at a site in the United States in the event of the accidental launch of the missile.

(2) Whether missile detargeting would prevent or significantly reduce the possibility of an unauthorized missile launch carried out by the Russian General Staff and prevent or significantly reduce the consequences to the United States of such a launch.

(3) Whether missile detargeting would pose a significant obstacle to an unauthorized launch carried out by an operational level below the Russian General Staff if missile operators at such an operational level acquired missile launch codes or had the technical expertise to override missile launch codes.

(4) The plausibility of an accidental launch of a Russian ICBM, compared to the possibility of a deliberate missile launch, authorized or unauthorized, resulting from Russian miscalculation, overreaction, or aggression.

(5) The national security benefits derived from detargeting United States and Russian ICBMs.

(6) The relative consequences to the United States of an unauthorized or accidental launch of a Russian ICBM that has been detargeted and one that has not been detargeted.

(b) DEFINITIONS.—For purposes of subsection (a):

(1) The term "Russian ICBM" means an intercontinental ballistic missile of the Russian Federation.

(2) The term "accidental launch" means a missile launch resulting from mechanical failure.

**SEC. 1302. LIMITATION ON RETIREMENT OR DISMANTLEMENT OF STRATEGIC NUCLEAR DELIVERY SYSTEMS.**

(a)[1] FUNDING LIMITATION.—(1) Except as provided in paragraph (2), funds available to the Department of Defense may not be obligated or expended for retiring or dismantling, or for preparing to retire or dismantle, any of the following strategic nuclear delivery systems below the specified levels:

(A) 76 B–52H bomber aircraft.

(B) 18 Trident ballistic missile submarines.

(C) 500 Minuteman III intercontinental ballistic missiles.

(D) 50 Peacekeeper intercontinental ballistic missiles.

(2) The limitation in paragraph (1)(B) shall be modified in accordance with paragraph (3) upon a certification by the President to Congress of the following:

(A) That the effectiveness of the United States strategic deterrent will not be decreased by reductions in strategic nuclear delivery systems.

(B) That the requirements of the Single Integrated Operational Plan can be met with a reduced number of strategic nuclear delivery systems.

(C) That reducing the number of strategic nuclear delivery systems will not, in the judgment of the President, provide a disincentive for Russia to ratify the START II treaty or serve to undermine future arms control negotiations.

(D) That the United States will retain the ability to increase the delivery capacity of its strategic nuclear delivery systems

[1] Sec. 1501 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 806) amended and restated subsecs. (a) and (b). The subsections, as previously amended by sec. 1501(1) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2171), formerly read as follows:

"(a) FUNDING LIMITATION.—Funds available to the Department of Defense may not be obligated or expended during the strategic delivery systems retirement limitation period for retiring or dismantling, or for preparing to retire or dismantle, any of the following strategic nuclear delivery systems below the specified levels:

"(1) 71 B–52H bomber aircraft.

"(2) 18 Trident ballistic missile submarines.

"(3) 500 Minuteman III intercontinental ballistic missiles.

"(4) 50 Peacekeeper intercontinental ballistic missiles.

"(b) WAIVER AUTHORITY.—If the START II Treaty enters into force during the strategic delivery systems retirement limitation period, the Secretary of Defense may waive the application of the limitation under subsection (a) to the extent that the Secretary determines necessary in order to implement the treaty.".

should threats arise that require more substantial United States strategic forces.

(3) If the President submits the certification described in paragraph (2), then the applicable number in effect under paragraph (1)(B)—

(A) shall be 16 during the period beginning on the date on which such certification is transmitted to Congress and ending on the date specified in subparagraph (B); and

(B) shall be 14 effective as of the date that is 240 days after the date on which such certification is transmitted.

(b)[1] WAIVER AUTHORITY.—If the START II Treaty enters into force, the President may waive the application of the limitation in effect under subsection (a) to a strategic nuclear delivery system[2] to the extent that the President determines such a waiver to be necessary in order to implement the treaty.

(c) FUNDING LIMITATION ON EARLY DEACTIVATION.—(1) If the limitation under subsection (a) ceases to apply by reason of a waiver under subsection (b), funds available to the Department of Defense may nevertheless not be obligated or expended[3] to implement any agreement or understanding to undertake substantial early deactivation of a strategic nuclear delivery system specified in subsection (a) until 30 days after the date on which the President submits to Congress a report concerning such actions.

(2) For purposes of this subsection and subsection (d), a substantial early deactivation is an action during the fiscal year during which the START II Treaty enters into force[4] to deactivate a substantial number of strategic nuclear delivery systems specified in subsection (a) by—

(A) removing nuclear warheads from those systems; or

(B) taking other steps to remove those systems from combat status.

(3) A report under this subsection shall include the following:

(A) The text of any understanding or agreement between the United States and the Russian Federation concerning substantial early deactivation of strategic nuclear delivery systems under the START II Treaty.

(B) The plan of the Department of Defense for implementing the agreement.

(C) An assessment of the Secretary of Defense of the adequacy of the provisions contained in the agreement for monitoring and verifying compliance of Russia with the terms of the agreement and, based upon that assessment, the determination of the President specifically as to whether the procedures

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[2] Sec. 1043 of the National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398; 114 Stat. 1654) struck out "the application of the limitation in effect under paragraph (1)(B) or (3) of subsection (a), as the case may be," and inserted in lieu thereof "the application of the limitation in effect under subsection (a) to a strategic nuclear delivery system".

[3] Sec. 1501(2) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2171) struck out "during fiscal year 1998".

[4] Sec. 1501(b)(1) of the the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65 (113 Stat. 806) struck out "during the strategic delivery systems retirement limitation period" and inserted in lieu thereof "during the fiscal year during which the START II Treaty enters into force". Previously, sec. 1501(1) of Public Law 105–261 (112 Stat. 2171) struck out "during the fiscal year 1998" and inserted in lieu thereof "during the strategic delivery systems retirement limitation period".

for monitoring and verification of compliance by Russia with the terms of the agreement are adequate or inadequate.

(D) A determination by the President as to whether the deactivations to occur under the agreement will be carried out in a symmetrical, reciprocal, or equivalent manner and whether the agreement will require early deactivations of strategic forces by the United States to be carried out substantially more rapidly than deactivations of strategic forces by Russia.

(E) An assessment by the President of the effect of the proposed early deactivation on the stability of the strategic balance and relative strategic nuclear capabilities of the United States and the Russian Federation at various stages during deactivation and upon completion, including a determination by the President specifically as to whether the proposed early deactivations will adversely affect strategic stability.

(d) FURTHER LIMITATION ON STRATEGIC FORCE REDUCTIONS.—(1) Amounts available to the Department of Defense[5] to implement an agreement that results in a substantial early deactivation[5] of strategic forces may not be obligated for that purpose if in the report under subsection (c)(3) the President determines any of the following:

(A) That procedures for monitoring and verification of compliance by Russia with the terms of the agreement are inadequate.

(B) That the agreement will require early deactivations of strategic forces by the United States to be carried out substantially more rapidly than deactivations of strategic forces by Russia.

(C) That the proposed early deactivations will adversely affect strategic stability.

(2) The limitation in paragraph (1), if effective by reason of a determination by the President described in paragraph (1)(B), shall cease to apply 30 days after the date on which the President notifies Congress that the early deactivations under the agreement are in the national interest of the United States.

(e) CONTINGENCY PLAN FOR SUSTAINMENT OF SYSTEMS.—(1) Not later then[6] February 15, 1998, the Secretary of Defense shall submit to Congress a plan for the sustainment beyond October 1, 1999, of United States strategic nuclear delivery systems and alternative Strategic Arms Reduction Treaty force structures in the event that a strategic arms reduction agreement subsequent to the Strategic Arms Reduction Treaty does not enter into force before 2004.

(2) The plan shall include a discussion of the following matters:

(A) The actions that are necessary to sustain the United States strategic nuclear delivery systems, distinguishing between the actions that are planned for and funded in the future-years defense program and the actions that are not planned for and funded in the future-years defense program.

(B) The funding necessary to implement the plan, indicating the extent to which the necessary funding is provided for in the future-years defense program and the extent to which the

[5] Sec. 1501(3)(A) and (B) of Public Law 105–261 (112 Stat. 2171) struck out "for fiscal year 1998" and "during fiscal year 1998", respectively.

[6] As enrolled.

necessary funding is not provided for in the future-years defense program.

(f) START TREATIES DEFINED.—In this section:

(1) The term "Strategic Arms Reduction Treaty" means the Treaty Between the United States of America and the United Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms (START), signed at Moscow on July 31, 1991, including related annexes on agreed statements and definitions, protocols, and memorandum of understanding.

(2) The term "START II Treaty" means the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms, signed at Moscow on January 3, 1993, including the following protocols and memorandum of understanding, all such documents being integral parts of and collectively referred to as the "START II Treaty" (contained in Treaty Document 103–1):

(A) The Protocol on Procedures Governing Elimination of Heavy ICBMs and on Procedures Governing Conversion of Silo Launchers of Heavy ICBMs Relating to the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the "Elimination and Conversion Protocol").

(B) The Protocol on Exhibitions and Inspections of Heavy Bombers Relating to the Treaty Between the United States and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the "Exhibitions and Inspections Protocol").

(C) The Memorandum of Understanding on Warhead Attribution and Heavy Bomber Data Relating to the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the "Memorandum on Attribution").

(g)[7] * * * [Repealed—1999]

**SEC. 1303.[8] ASSISTANCE FOR FACILITIES SUBJECT TO INSPECTION UNDER THE CHEMICAL WEAPONS CONVENTION.**

(a) ASSISTANCE AUTHORIZED.—Upon the request of the owner or operator of a facility that is subject to a routine inspection or a challenge inspection under the Chemical Weapons Convention, the Secretary of Defense may provide technical assistance to that owner or operator related to compliance of that facility with the Convention. Any such assistance shall be provided through the On-Site Inspection Agency of the Department of Defense.

(b) REIMBURSEMENT REQUIREMENT.—The Secretary may provide assistance under subsection (a) only to the extent that the Secretary determines that the Department of Defense will be reimbursed for costs incurred in providing the assistance. The United

[7] Sec. 1501(4) of Public Law 105–261 (112 Stat. 2171) added subsec. (g). Sec. 1501(b)(1) of Public Law 106–65 (113 Stat. 806) struck out the subsection the following year. It had read as follows:

"(g) STRATEGIC DELIVERY SYSTEMS RETIREMENT LIMITATION PERIOD.—For purposes of this section, the term 'strategic delivery systems retirement limitation period' means the period of fiscal years 1998 and 1999.".

[8] 50 U.S.C. 1525.

States National Authority may provide such reimbursement from amounts available to it. Any such reimbursement shall be credited to amounts available for the On-Site Inspection Agency.

(c) DEFINITIONS.—In this section:

(1) The terms "Chemical Weapons Convention" and "Convention" mean the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, ratified by the United States on April 25, 1997, and entered into force on April 29, 1997.

(2) The term "facility that is subject to a routine inspection" means a declared facility, as defined in paragraph 15 of part X of the Annex on Implementation and Verification of the Convention.

(3) The term "challenge inspection" means an inspection conducted under Article IX of the Convention.

(4) The term "United States National Authority" means the United States National Authority established or designated pursuant to Article VII, paragraph 4, of the Convention.

**SEC. 1304. TRANSFERS OF AUTHORIZATIONS FOR HIGH-PRIORITY COUNTERPROLIFERATION PROGRAMS.**

(a) AUTHORITY.—(1) Subject to paragraph (2), the Secretary of Defense may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1998 to any counterproliferation program, project, or activity described in subsection (b).

(2) A transfer of authorizations may be made under this section only upon determination by the Secretary of Defense that such action is necessary in the national interest.

(3) Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(b) PROGRAMS TO WHICH TRANFERS MAY BE MADE.—The authority under subsection (a) applies to any counterproliferation program, project, or activity of the Department of Defense identified as an area for progress in the most recent annual report of the Counterproliferation Program Review Committee established by section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note).

(c) LIMITATION ON TOTAL AMOUNT.—The total amount of authorizations transferred under the authority of this section may not exceed $50,000,000.

(d) OTHER LIMITATIONS AND REQUIREMENTS.—The provisions of subsection (b), (c), and (d) of section 1001 shall apply to a transfer under this section in the same manner as they apply to a transfer under subsection (a) of that section.

(e) CONSTRUCTION WITH GENERAL TRANSFER AUTHORITY.—The authority provided by this section is in addition to the transfer authority provided in section 1001.

**SEC. 1305.[9] ADVICE TO THE PRESIDENT AND CONGRESS REGARDING THE SAFETY, SECURITY, AND RELIABILITY OF UNITED STATES NUCLEAR WEAPONS STOCKPILE.**

(a) FINDINGS.—Congress makes the following findings:

(1) Nuclear weapons are the most destructive weapons on earth. The United States and its allies continue to rely on nuclear weapons to deter potential adversaries from using weapons of mass destruction. The safety and reliability of the nuclear weapons stockpile are essential to ensure its credibility as a deterrent.

(2) On September 24, 1996, President Clinton signed the Comprehensive Test Ban Treaty.

(3) Effective as of September 30, 1996, the United States is prohibited by section 507 of the Energy and Water Development Appropriations Act, 1993 (Public Law 102–377; 42 U.S.C. 2121 note) from conducting underground nuclear tests "unless a foreign state conducts a nuclear test after this date, at which time the prohibition on United States nuclear testing is lifted".

(4) Section 1436(b) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 42 U.S.C. 2121 note) requires the Secretary of Energy to "establish and support a program to assure that the United States is in a position to maintain the reliability, safety, and continued deterrent effect of its stockpile of existing nuclear weapons designs in the event that a low-threshold or comprehensive test ban on nuclear explosive testing is negotiated and ratified.".

(5) Section 3138(d) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 42 U.S.C. 2121 note) required the President to submit an annual report to Congress which sets forth "any concerns with respect to the safety, security, effectiveness, or reliability of existing United States nuclear weapons raised by the Stockpile Stewardship Program of the Department of Energy".

(6) President Clinton declared in July 1993 that "to assure that our nuclear deterrent remains unquestioned under a test ban, we will explore other means of maintaining our confidence in the safety, reliability, and the performance of our weapons". This decision was incorporated in a Presidential Directive.

(7) Section 3138 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 42 U.S.C. 2121 note) also requires that the Secretary of Energy establish a "stewardship program to ensure the preservation of the core intellectual and technical competencies of the United States in nuclear weapons".

(8) The plan of the Department of Energy to maintain the safety and reliability of the United States nuclear weapons stockpile is known as the Stockpile Stewardship and Management Program. The ability of the United States to maintain and certify the safety, security, effectiveness, and reliability of the nuclear weapons stockpile without testing will require utilization of new and sophisticated computational capabilities and diagnostic technologies, methods, and procedures. Current

[9] 42 U.S.C. 7274p.

diagnostic technologies and laboratory testing techniques are insufficient to certify the safety and reliability of the United States nuclear weapons stockpile into the future. Whereas in the past laboratory and diagnostic tools were used in conjunction with nuclear testing, in the future they will provide, under the Department of Energy's stockpile stewardship plan, the sole basis for assessing past test data and for making judgments on phenomena observed in connection with the aging of the stockpile.

(9) Section 3159 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 42 U.S.C. 7274o) requires that the directors of the nuclear weapons laboratories and the nuclear weapons production plants submit a report to the Assistant Secretary of Energy for Defense Programs if they identify a problem that has significant bearing on confidence in the safety or reliability of a nuclear weapon or nuclear weapon type, that the Assistant Secretary must transmit that report, along with any comments, to the congressional defense committees and to the Secretary of Energy and the Secretary of Defense, and that the Joint Nuclear Weapons Council advise Congress regarding its analysis of any such problems.

(10) On August 11, 1995, President Clinton directed "the establishment of a new annual reporting and certification requirement [to] ensure that our nuclear weapons remain safe and reliable under a comprehensive test ban".

(11) On the same day, the President noted that the Secretary of Defense and the Secretary of Energy have the responsibility, after being "advised by the Nuclear Weapons Council, the Directors of DOE's nuclear weapons laboratories, and the Commander of United States Strategic Command", to provide the President with the information regarding the certification referred to in paragraph (10).

(12) The Joint Nuclear Weapons Council established by section 179 of title 10, United States Code, is responsible for providing advice to the Secretary of Energy and the Secretary of Defense regarding nuclear weapons issues, including "considering safety, security, and control issues for existing weapons". The Council plays a critical role in advising Congress in matters relating to nuclear weapons.

(13) It is essential that the President receive well-informed, objective, and honest opinions, including dissenting views, from his advisers and technical experts regarding the safety, security, effectiveness, and reliability of the nuclear weapons stockpile.

(b) POLICY.—

(1) IN GENERAL.—It is the policy of the United States—

(A) to maintain a safe, secure, effective, and reliable nuclear weapons stockpile; and

(B) as long as other nations control or actively seek to acquire nuclear weapons, to retain a credible nuclear deterrent.

(2) NUCLEAR WEAPONS STOCKPILE.—It is in the security interest of the United States to sustain the United States nuclear weapons stockpile through a program of stockpile stewardship, carried out at the nuclear weapons laboratories and nuclear weapons production plants.

(3) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) the United States should retain a triad of strategic nuclear forces sufficient to deter any future hostile foreign leadership with access to strategic nuclear forces from acting against the vital interests of the United States;

(B) the United States should continue to maintain nuclear forces of sufficient size and capability to implement an effective and robust deterrent strategy; and

(C) the advice of the persons required to provide the President and Congress with assurances of the safety, security, effectiveness, and reliability of the nuclear weapons force should be scientifically based, without regard for politics, and of the highest quality and integrity.

(c) ADDITION OF PRESIDENT TO RECIPIENTS OF REPORTS BY HEADS OF LABORATORIES AND PLANTS.—Section 3159(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 42 U.S.C. 7274o) is amended— * * *

(d) TEN-DAY TIME LIMIT FOR TRANSMITTAL OF REPORT.—Section 3159(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 42 U.S.C. 7274o) is amended * * *

(e) ADVICE AND OPINIONS REGARDING NUCLEAR WEAPONS STOCKPILE.—In addition to a director of a nuclear weapons laboratory or a nuclear weapons production plant (under section 3159 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 42 U.S.C. 7274o)), any member of the Joint Nuclear Weapons Council or the commander of the United States Strategic Command may also submit to the President, the Secretary of Defense, the Secretary of Energy, or the congressional defense committees advice or opinion regarding the safety, security, effectiveness, and reliability of the nuclear weapons stockpile.

(f) EXPRESSION OF INDIVIDUAL VIEWS.—A representative of the President may not take any action against, or otherwise constrain, a director of a nuclear weapons laboratory or a nuclear weapons production plant, a member of the Joint Nuclear Weapons Council, or the Commander of United States Strategic Command for presenting individual views to the President, the National Security Council, or Congress regarding the safety, security, effectiveness, and reliability of the nuclear weapons stockpile.

(g) DEFINITIONS.—In this section:

(1) The term "representative of the President" means the following:

(A) Any official of the Department of Defense or the Department of Energy who is appointed by the President and confirmed by the Senate.

(B) Any member of the National Security Council.

(C) Any member of the Joint Chiefs of Staff.

(D) Any official of the Office of Management and Budget.

(2) The term "nuclear weapons laboratory" means any of the following:

(A) Lawrence Livermore National Laboratory, California.
(B) Los Alamos National Laboratory, New Mexico.
(C) Sandia National Laboratories.

(3) The term "nuclear weapons production plant" means any of the following:

(A) The Pantex Plant, Texas.
(B) The Savannah River Site, South Carolina.
(C) The Kansas City Plant, Missouri.
(D) The Y–12 Plant, Oak Ridge, Tennessee.

**SEC. 1306. RECONSTITUTION OF COMMISSION TO ASSESS THE BALLISTIC MISSILE THREAT TO THE UNITED STATES.**

(a) INITIAL ORGANIZATION REQUIREMENTS.—Section 1321(g) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2712) is amended— * * *

(b) FUNDING.—Section 1328 of such Act (110 Stat. 2714) is amended * * *

**SEC. 1307. SENSE OF CONGRESS REGARDING THE RELATIONSHIP BETWEEN UNITED STATES OBLIGATIONS UNDER THE CHEMICAL WEAPONS CONVENTION AND ENVIRONMENTAL LAWS.**

(a) FINDINGS.—Congress makes the following findings:

(1) The Chemical Weapons Convention requires the destruction of the United States stockpile of lethal chemical agents and munitions by April 29, 2007 (not later than 10 years after the Convention's entry into force).

(2) The President has substantial authority under existing law to ensure that—

(A) the technologies necessary to destroy the stockpile are developed;

(B) the facilities necessary to destroy the stockpile are constructed; and

(C) Federal, State, and local environmental laws and regulations do not impair the ability of the United States to comply with its obligations under the Convention.

(3) The Comptroller General has concluded (in GAO Report NSIAD 97018 of February 1997) that—

(A) obtaining the necessary Federal and State permits that are required under Federal environmental laws and regulations for building and operating the chemical agents and munitions destruction facilities is among the most unpredictable factors in the chemical demilitarization program; and

(B) program cost and schedule are largely driven by the degree to which States and local communities are in agreement with proposed disposal methods and whether those methods meet environmental concerns.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President—

(1) should use the authority of the President under existing law to ensure that the United States is able to construct and operate the facilities necessary to destroy the United States stockpile of lethal chemical agents and munitions within the time allowed by the Chemical Weapons Convention; and

(2) while carrying out the obligations of the United States under the Convention, should encourage negotiations between appropriate Federal officials and officials of the State and local governments concerned to attempt to meet their concerns regarding compliance with Federal and State environmental laws and regulations and other concerns about the actions being taken to carry out those obligations.

(c) CHEMICAL WEAPONS CONVENTION DEFINED.—For the purposes of this section, the terms "Chemical Weapons Convention" and "Convention" mean the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, ratified by the United States on April 25, 1997, and entered into force on April 29, 1997.

**SEC. 1308. EXTENSION OF COUNTERPROLIFERATION AUTHORITIES FOR SUPPORT OF UNITED NATIONS SPECIAL COMMISSION ON IRAQ.**

Section 1505 of the Weapons of Mass Destruction Control Act of 1992 (title XV of Public Law 102–484; 22 U.S.C. 5859a) is amended— * * *

**SEC. 1309.[10] ANNUAL REPORT ON MORATORIUM ON USE BY ARMED FORCES OF ANTIPERSONNEL LANDMINES.**

(a) FINDINGS.—Congress makes the following findings:

(1) The United States has stated its support for a ban on antipersonnel landmines that is global in scope and verifiable.

(2) On May 16, 1996, the President announced that the United States, as a matter of policy, would eliminate its stockpile of non-self-destructing antipersonnel landmines, except those used for training purposes and in Korea, and that the United States would reserve the right to use self-destructing antipersonnel landmines in the event of conflict.

(3) On May 16, 1996, the President also announced that the United States would lead an effort to negotiate an international treaty permanently banning the use of all antipersonnel landmines.

(4) The United States is currently participating at the United Nations Conference on Disarmament in negotiations aimed at achieving a global ban on the use of antipersonnel landmines.

(5) On August 18, 1997, the administration agreed to participate in international negotiations sponsored by Canada (the so-called "Ottawa process") designed to achieve a treaty that would outlaw the production, use, and sale of antipersonnel landmines.

(6) On September 17, 1997, the President announced that the United States would not sign the antipersonnel landmine treaty concluded in Oslo, Norway, by participants in the Ottawa process because the treaty would not provide a geographic exception to allow the United States to stockpile and use antipersonnel landmines in Korea or an exemption that would preserve the ability of the United States to use mixed antitank mine systems which could be used to deter an armored assault against United States forces.

[10] 10 U.S.C. 113 note.

(7) The President also announced a change in United States policy whereby the United States—

(A) would no longer deploy antipersonnel landmines, including self-destructing antipersonnel landmines, by 2003, except in Korea;

(B) would seek to field alternatives by that date, or by 2006 in the case of Korea;

(C) would undertake a new initiative in the United Nations Conference on Disarmament to establish a global ban on the transfer of antipersonnel landmines; and

(D) would increase its current humanitarian demining activities around the world.

(8) The President's decision would allow the continued use by United States forces of self-destructing antipersonnel landmines that are used as part of a mixed antitank mine system.

(9) Under existing law (as provided in section 580 of Public Law 104–107; 110 Stat. 751), on February 12, 1999, the United States will implement a one-year moratorium on the use of antipersonnel landmines by United States forces except along internationally recognized national borders or in demilitarized zones within a perimeter marked area that is monitored by military personnel and protected by adequate means to ensure the exclusion of civilians.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should not implement a moratorium on the use of antipersonnel landmines by United States Armed Forces in a manner that would endanger United States personnel or undermine the military effectiveness of United States Armed Forces in executing their missions; and

(2) the United States should pursue the development of alternatives to self-destructing antipersonnel landmines.

(c) ANNUAL REPORT.—Not later than December 31 each year, the Secretary of Defense shall submit to the congressional defense committees a report concerning antipersonnel landmines. Each such report shall include the Secretary's description of the following:

(1) The military utility of the continued deployment and use by the United States of antipersonnel landmines.

(2) The effect of a moratorium on the production, stockpiling, and use of antipersonnel landmines on the ability of United States forces to deter and defend against attack on land by hostile forces, including on the Korean peninsula.

(3) Progress in developing and fielding systems that are effective substitutes for antipersonnel landmines, including an identification and description of the types of systems that are being developed and fielded, the costs associated with those systems, and the estimated timetable for developing and fielding those systems.

(4) The effect of a moratorium on the use of antipersonnel landmines on the military effectiveness of current antitank mine systems.

(5) The number and type of pure antipersonnel landmines that remain in the United States inventory and that are subject to elimination under the President's September 17, 1997, declaration on United States antipersonnel landmine policy.

(6) The number and type of mixed antitank mine systems that are in the United States inventory, the locations where they are deployed, and their effect on the deterrence and warfighting ability of United States Armed Forces.

(7) The effect of the elimination of pure antipersonnel landmines on the warfighting effectiveness of the United States Armed Forces.

(8) The costs already incurred and anticipated of eliminating antipersonnel landmines from the United States inventory in accordance with the policy enunciated by the President on September 17, 1997.

(9) The benefits that would result to United States military and civilian personnel from an international treaty banning the production, use, transfer, and stockpiling of antipersonnel landmines.

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## m. National Defense Authorization Act for Fiscal Year 1997

**Partial text of Public Law 104–201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; as amended by Public Law 105–85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119], 111 Stat. 1629, approved November 18, 1997**

AN ACT To authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

* * * * * * *

## DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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## TITLE XIII—ARMS CONTROL AND RELATED MATTERS

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### Subtitle A—Arms Control, Counterproliferation Activities, and Related Matters

**SEC. 1301. EXTENSION OF COUNTERPROLIFERATION AUTHORITIES.**

(a) ONE-YEAR EXTENSION OF AUTHORITY.—Section 1505 of the Weapons of Mass Destruction Control Act of 1992 (title XV of Public Law 102–484; 22 U.S.C. 5859a) is amended—* * *

(b) * * *

**SEC. 1302. LIMITATION ON RETIREMENT OR DISMANTLEMENT OF STRATEGIC NUCLEAR DELIVERY SYSTEMS.**

(a) FUNDING LIMITATION.—Funds available to the Department of Defense may not be obligated or expended during fiscal year 1997 for retiring or dismantling, or for preparing to retire or dismantle, any of the following strategic nuclear delivery systems:

(1) B–52H bomber aircraft.
(2) Trident ballistic missile submarines.
(3) Minuteman III intercontinental ballistic missiles.
(4) Peacekeeper intercontinental ballistic missiles.

(b) WAIVER AUTHORITY.—If the START II Treaty enters into force during fiscal year 1996 or fiscal year 1997, the Secretary of Defense may waive the application of the limitation under paragraphs (2), (3), and (4) of subsection (a) to Trident ballistic missile submarines, Minuteman III intercontinental ballistic missiles, and Peacekeeper intercontinental ballistic missiles, respectively, to the extent that the Secretary determines necessary in order to implement the treaty.

(c) FUNDING LIMITATION ON EARLY DEACTIVATION.—(1) If the limitation under paragraphs (2), (3), and (4) of subsection (a) ceases to apply by reason of a waiver under subsection (b), funds available to the Department of Defense may nevertheless not be obligated or expended during fiscal year 1997 to implement any agreement or understanding to undertake substantial early deactivation of a strategic nuclear delivery system specified in subsection (b) until 30 days after the date on which the President submits to Congress a report concerning such actions.

(2) For purposes of this subsection, a substantial early deactivation is an action during fiscal year 1997 to deactivate a substantial number of strategic nuclear delivery systems specified in subsection (b) by—

(A) removing nuclear warheads from those systems; or

(B) taking other steps to remove those systems from combat status.

(3) A report under this subsection shall include the following:

(A) The text of any understanding or agreement between the United States and the Russian Federation concerning substantial early deactivation of strategic nuclear delivery systems under the START II Treaty.

(B) The plan of the Department of Defense for implementing the agreement.

(C) An assessment of the Secretary of Defense of the adequacy of the provisions contained in the agreement for monitoring and verifying compliance of Russia with the terms of the agreement.

(D) A determination by the President as to whether the deactivations to occur under the agreement will be carried out in a symmetrical, reciprocal, or equivalent manner.

(E) An assessment by the President of the effect of the proposed early deactivation on the stability of the strategic balance and relative strategic nuclear capabilities of the United States and the Russian Federation at various stages during deactivation and upon completion.

(d) START II TREATY DEFINED.—For purposes of this section, the term "START II Treaty" means the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms, signed at Moscow on January 3, 1993, including the following protocols and memorandum of understanding, all such documents being integral parts of and collectively referred to as the "START II Treaty" (contained in Treaty Document 103–1):

(1) The Protocol on Procedures Governing Elimination of Heavy ICBMs and on Procedures Governing Conversion of Silo Launchers of Heavy ICBMs Relating to the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the "Elimination and Conversion Protocol").

(2) The Protocol on Exhibitions and Inspections of Heavy Bombers Relating to the Treaty Between the United States and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the "Exhibitions and Inspections Protocol").

(3) The Memorandum of Understanding on Warhead Attribution and Heavy Bomber Data Relating to the Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Offensive Arms (also known as the "Memorandum on Attribution").

(e) RETENTION OF B–52H AIRCRAFT ON ACTIVE STATUS.—(1) The Secretary of the Air Force shall maintain in active status (including the performance of standard maintenance and upgrades) the current fleet of B–52H bomber aircraft.

(2) For purposes of carrying out upgrades of B–52H bomber aircraft during fiscal year 1997, the Secretary shall treat the entire current fleet of such aircraft as aircraft expected to be maintained in active status during the six-year period beginning on October 1, 1996.

**SEC. 1303. STRENGTHENING CERTAIN SANCTIONS AGAINST NUCLEAR PROLIFERATION ACTIVITIES.**

(a) SANCTIONS.—Section 2(b)(4) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(4)) is amended * * *[1]

(b) RECOMMENDATIONS TO MAKE NONPROLIFERATION LAWS MORE EFFECTIVE.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the Congress his recommendations on ways to make the laws of the United States more effective in controlling and preventing the proliferation of weapons of mass destruction and missiles. The report shall identify all sources of Government funds used for such nonproliferation activities.

**SEC. 1304. AUTHORITY TO PAY CERTAIN EXPENSES RELATING TO HUMANITARIAN AND CIVIC ASSISTANCE FOR CLEARANCE OF LANDMINES.**

(a) AUTHORITY TO PAY EXPENSES.—Section 401(c) of title 10, United States Code, is amended—* * *[2]

(b) * * *

**SEC. 1305. REPORT ON MILITARY CAPABILITIES OF PEOPLE'S REPUBLIC OF CHINA.**

(a) REPORT.—The Secretary of Defense shall prepare a report, in both classified and unclassified form, on the future pattern of military modernization of the People's Republic of China. The report shall address both the probable course of military-technological development in the People's Liberation Army and the development of Chinese military strategy and operational concepts.

(b) MATTERS TO BE INCLUDED.—The report shall include analyses and forecasts of the following:

(1) Trends that would lead the People's Republic of China toward advanced intelligence, surveillance, and reconnaissance capabilities, either through a development program or by gaining access to commercial or third-party systems with militarily significant capabilities.

(2) Efforts by the People's Republic of China to develop highly accurate and low-observable ballistic and cruise missiles,

[1] For full text of Export-Import Bank Act of 1945, see *Legislation on Foreign Relations Through 2008*, vol. III.

[2] For 10 U.S.C. 401, see *Legislation on Foreign Relations Through 2008*, vol. I–B.

and the investments in infrastructure that would allow for production of such weapons in militarily significant quantities, particularly in numbers sufficient to conduct attacks capable of overwhelming projected defense capabilities in the region.

(3) Development by the People's Republic of China of enhanced command and control networks, particularly those capable of battle management that would include long-range precision strikes.

(4) Programs of the People's Republic of China involving unmanned aerial vehicles, particularly those with extended ranges or loitering times.

(5) Exploitation by the People's Republic of China of the Global Positioning System or other similar systems, including commercial land surveillance satellites, for significant military purposes, including particularly for increasing the accuracy of weapons or the situational awareness of operating forces.

(6) Development by the People's Republic of China of capabilities for denial of sea control, such as advanced sea mines or improved submarine capabilities.

(7) Continued development by the People's Republic of China of follow-on forces, particularly those capable of rapid air or amphibious assault.

(c) SUBMISSION OF REPORT.—The report shall be submitted to Congress not later than February 1, 1997.

**SEC. 1306. PRESIDENTIAL REPORT REGARDING WEAPONS PROLIFERATION AND POLICIES OF THE PEOPLE'S REPUBLIC OF CHINA.**

(a) FINDINGS.—The Congress finds that—

(1) the People's Republic of China acceded to the Treaty on the Non-Proliferation of Nuclear Weapons (hereafter in this section referred to as the "NPT") on March 9, 1992;

(2) the People's Republic of China is not a member of the Nuclear Suppliers Group and remains the only major nuclear supplier that continues to transfer nuclear technology, equipment, and materials to countries that have not agreed to the application of safeguards of the International Atomic Energy Agency (hereafter in this section referred to as the "IAEA") over all of their nuclear materials;

(3) on June 30, 1995, the United States and 29 other members of the Nuclear Suppliers Group notified the Director General of the IAEA that the Government of each respective country has decided that the controls of that Group should not be defeated by the transfer of component parts;

(4) a state-owned entity in the People's Republic of China, the China Nuclear Energy Industry Corporation, has knowingly transferred specially designed ring magnets to an unsafeguarded uranium enrichment facility in the Islamic Republic of Pakistan;

(5) ring magnets are identified on the Trigger List of the Nuclear Suppliers Group as a component of magnetic suspension bearings which are to be exported only to countries that have safeguards of the IAEA over all of their nuclear materials;

(6) these ring magnets could contribute significantly to the ability of the Islamic Republic of Pakistan to produce additional unsafeguarded enriched uranium, a nuclear explosive material;

(7) the Government of the People's Republic of China has transferred nuclear equipment and technology to the Islamic Republic of Iran, despite repeated claims by the Government of the United States that the Islamic Republic of Iran is engaged in clandestine efforts to acquire a nuclear explosive device;

(8) representatives of the Government of the People's Republic of China have repeatedly assured the Government of the United States that the People's Republic of China would abide by the guidelines of the Missile Technology Control Regime (hereafter in this section referred to as the "MTCR");

(9) the Government of China has transferred M–11 missiles to the Islamic Republic of Pakistan; and

(10) the M–11 missile conforms to the definition of a nuclear-capable missile under the MTCR.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the assistance that the People's Republic of China has provided to the Islamic Republic of Iran and to the Islamic Republic of Pakistan could contribute to the ability of such countries to manufacture nuclear weapons;

(2) the recent transfer by the People's Republic of China of ring magnets to an unsafeguarded uranium enrichment facility in the Islamic Republic of Pakistan conflicts with China's obligations under Articles I and III of the NPT, as well as the official nonproliferation policies and assurances by the People's Republic of China and the Islamic Republic of Pakistan with respect to the nonproliferation of nuclear weapons and nuclear-capable missiles;

(3) the transfer of M–11 missiles from the People's Republic of China to the Islamic Republic of Pakistan is inconsistent with longstanding United States Government interpretations of assurances from the Government of the People's Republic of China with respect to that country's intent to abide by the guidelines of the MTCR;

(4) violations by the People's Republic of China of the standards and objectives of the MTCR and global nuclear nonproliferation regimes have jeopardized the credibility of the MTCR and such regimes;

(5) the MTCR and global nuclear nonproliferation regimes require collective international action to impose costs against and to withhold benefits from any country, including the People's Republic of China, that engages in activities that are contrary to the objectives of those regimes;

(6) the President should explore with the governments of other countries new opportunities for collective action in response to activities of any country, including the People's Republic of China, that aid or abet the global proliferation of weapons of mass destruction or their means of delivery; and

(7) the President should communicate to the Government of the People's Republic of China the sense of the Congress that

the stability and growth of future relations between the people, the economies, and the Governments of the United States and the People's Republic of China will significantly depend upon substantive evidence of cooperation by the Government of the People's Republic of China in efforts to halt the global proliferation of weapons of mass destruction and their means of delivery.

(c) REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall submit to the Congress a report, in both classified and unclassified form, concerning the transfer from the People's Republic of China to the Islamic Republic of Pakistan of technology, equipment, or materials important to the production of nuclear weapons and their means of delivery. The President shall include in the report the following:

(1) The specific justification of the Secretary of State for determining that there was not a sufficient basis for imposing sanctions under section 2(b)(4) of the Export-Import Bank Act of 1945, as amended by section 825 of the Nuclear Proliferation Prevention Act of 1994, by reason of the transfer of ring magnets and other technology, equipment, or materials from the People's Republic of China to the Islamic Republic of Pakistan.

(2) What commitment the United States Government is seeking from the People's Republic of China to ensure that the People's Republic of China establishes a fully effective export control system that will prevent transfers (such as the Pakistan sale) from taking place in the future.

(3) A description of the pledges, assurances, and other commitments made by representatives of the Governments of the People's Republic of China and the Islamic Republic of Pakistan to the Government of the United States since January 1, 1991, with respect to the nonproliferation of nuclear weapons or nuclear-capable missiles, and an assessment of the record of compliance with such undertakings.

(4) Whether, in light of the recent assurances provided by the People's Republic of China, the President intends to make the certification and submit the report required by section 902(a)(6)(B) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 2151 note), and make the certification and submit the report required by Public Law 99–183, relating to the approval and implementation of the agreement for nuclear cooperation between the United States and the People's Republic of China, and, if not, why not.

(5) Whether the Secretary of State considers the recent assurances and clarifications provided by the People's Republic of China to have provided sufficient information to allow the United States to determine that the People's Republic of China is not in violation of paragraph (2) of section 129 of the Atomic Energy Act of 1954, as required by Public Law 99–183.

(6) If the President is unable or unwilling to make the certifications and reports referred to in paragraph (4), a description of what the President considers to be the significance of

the clarifications and assurances provided by the People's Republic of China in the course of the recent discussions regarding the transfer by the People's Republic of China of nuclear-weapon-related equipment to the Islamic Republic of Pakistan.

(7) A description of the laws, regulations, and procedures currently used by the People's Republic of China to regulate exports of nuclear technology, equipment, or materials, including dual-use goods, and an assessment of the effectiveness of such arrangements.

(8) A description of the current policies and practices of other countries in response to the transfer of nuclear and missile technology by the People's Republic of China to the Islamic Republic of Pakistan and the Islamic Republic of Iran.

**SEC. 1307. UNITED STATES-PEOPLE'S REPUBLIC OF CHINA JOINT DEFENSE CONVERSION COMMISSION.**

None of the funds appropriated or otherwise available for the Department of Defense for fiscal year 1997 or any prior fiscal year may be obligated or expended for any activity associated with the United States-People's Republic of China Joint Defense Conversion Commission until 15 days after the date on which the first semiannual report required by section 1343 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 487) is received by Congress.

**SEC. 1308. SENSE OF CONGRESS CONCERNING EXPORT CONTROLS.**

(a) FINDINGS.—The Congress makes the following findings:

(1) Export controls are a part of a comprehensive response to national security threats. The export of a United States commodity or technology should be restricted in cases in which the export of the commodity or technology would increase the threat to the national security of the United States or would be contrary to the nonproliferation goals or foreign policy interests of the United States.

(2) The export of certain commodities and technology may adversely affect the national security and foreign policy of the United States by making a significant contribution to the military potential of countries or by enhancing the capability of countries to design, develop, test, produce, stockpile, or use weapons of mass destruction and missile delivery systems, and other significant military capabilities. Therefore, the administration of export controls should emphasize the control of these exports.

(3) The acquisition of sensitive commodities and technologies by those countries and end users whose actions or policies run counter to United States national security or foreign policy interests may enhance the military capabilities of those countries, particularly their ability to design, develop, test, produce, stockpile, use, and deliver nuclear, chemical, and biological weapons and missile delivery systems, and other significant military capabilities. This enhancement threatens the security of the United States and its allies. The availability to countries and end users of items that contribute to military capabilities or the proliferation of weapons of mass destruction is a fundamental concern of the United States and should be eliminated

through deterrence, negotiations, and other appropriate means whenever possible.

(4) The national security of the United States depends not only on wise foreign policies and a strong defense, but also a vibrant national economy. To be truly effective, export controls should be applied uniformly by all suppliers.

(5) On November 8, 1995, the President continued the national emergency declared in Executive Order No. 12938 of November 14, 1994, "with respect to the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by the proliferation of nuclear, biological, and chemical weapons and the means of delivering such weapons".

(6) A successor regime to COCOM (the Coordinating Committee for Multilateral Export Controls) has not been established. Currently, each nation is determining independently which dual-use military items, if any, will be controlled for export.

(7) The United States should play a leading role in promoting transparency and responsibility with regard to the transfers of sensitive dual-use goods and technologies.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) establishing an international export control regime, empowered to control exports of dual-use technology, is critically important and should be a top priority for the United States; and

(2) the United States should strongly encourage its allies and other friendly countries to—

(A) adopt export controls that are the same or similar to the export controls imposed by the United States on items on the Commerce Control List;

(B) strengthen enforcement of their export controls; and

(C) explore the use of unilateral export controls where the possibility exists that an export could contribute to the enhancement of military capabilities or proliferation described in paragraphs (3) and (5) of subsection (a).

**SEC. 1309. COUNTERPROLIFERATION PROGRAM REVIEW COMMITTEE.**

(a) COMPOSITION OF THE COMMITTEE.—Subsection (a) of section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note) is amended by adding at the end the following new paragraph: * * *

(b)–(c) * * *

(d) REPORTS ON COUNTERPROLIFERATION ACTIVITIES AND PROGRAMS.—Section 1503 of the National Defense Authorization Act for Fiscal Year 1995 (22 U.S.C. 2751 note) is amended—* * *

**SEC. 1310. SENSE OF CONGRESS CONCERNING ASSISTING OTHER COUNTRIES TO IMPROVE SECURITY OF FISSILE MATERIAL.**

(a) FINDINGS.—Congress finds the following:

(1) With the end of the Cold War, the world is faced with the need to manage the dismantling of vast numbers of nuclear weapons and the disposition of the fissile materials that they contain.

(2) If recently agreed reductions in nuclear weapons are fully implemented, tens of thousands of nuclear weapons, containing a hundred tons or more of plutonium and many hundreds of tons of highly enriched uranium, will no longer be needed for military purposes.

(3) Plutonium and highly enriched uranium are the essential ingredients of nuclear weapons.

(4) Limits on access to plutonium and highly enriched uranium are the primary technical barrier to acquiring nuclear weapons capability in the world today.

(5) Several kilograms of plutonium, or several times that amount of highly enriched uranium, are sufficient to make a nuclear weapon.

(6) Plutonium and highly enriched uranium will continue to pose a potential threat for as long as they exist.

(7) Action is required to secure and account for plutonium and highly enriched uranium.

(8) It is in the national interest of the United States to—

(A) minimize the risk that fissile materials could be obtained by unauthorized parties;

(B) minimize the risk that fissile materials could be reintroduced into the arsenals from which they came, halting or reversing the arms reduction process; and

(C) strengthen the national and international control mechanisms and incentives designed to ensure continued arms reductions and prevent the spread of nuclear weapons.

(b) SENSE OF CONGRESS.—In light of the findings contained in subsection (a), it is the sense of Congress that the United States has a national security interest in assisting other countries to improve the security of their stocks of fissile material.

**SEC. 1311. REVIEW BY DIRECTOR OF CENTRAL INTELLIGENCE OF NATIONAL INTELLIGENCE ESTIMATE 95–19.**

(a) REVIEW.—The Director of Central Intelligence shall conduct a review of the underlying assumptions and conclusions of the National Intelligence Estimate designated as NIE 95–19 and entitled "Emerging Missile Threats to North America During the Next 15 Years", released by the Director in November 1995.

(b) METHODOLOGY FOR REVIEW.—The Director shall carry out the review under subsection (a) through a panel of independent, nongovernmental individuals with appropriate expertise and experience. Such a panel shall be convened by the Director not later than 45 days after the date of the enactment of this Act.

(c) REPORT.—The Director shall submit the findings resulting from the review under subsection (a), together with any comments of the Director on the review and the findings, to Congress not later than three months after the appointment of the Commission under section 1321.

## Subtitle B—Commission To Assess the Ballistic Missile Threat to the United States

**SEC. 1321. ESTABLISHMENT OF COMMISSION.**

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the "Commission To Assess the Ballistic Missile Threat to the United States" (hereafter in this subtitle referred to as the "Commission").

(b) COMPOSITION.—The Commission shall be composed of nine members appointed by the Director of Central Intelligence. In selecting individuals for appointment to the Commission, the Director should consult with—

(1) the Speaker of the House of Representatives concerning the appointment of three of the members of the Commission;

(2) the majority leader of the Senate concerning the appointment of three of the members of the Commission; and

(3) the minority leader of the House of Representatives and the minority leader of the Senate concerning the appointment of three of the members of the Commission.

(c) QUALIFICATIONS.—Members of the Commission shall be appointed from among private United States citizens with knowledge and expertise in the political and military aspects of proliferation of ballistic missiles and the ballistic missile threat to the United States.

(d) CHAIRMAN.—The Speaker of the House of Representatives, after consultation with the majority leader of the Senate and the minority leaders of the House of Representatives and the Senate, shall designate one of the members of the Commission to serve as chairman of the Commission.

(e) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(f) SECURITY CLEARANCES.—All members of the Commission shall hold appropriate security clearances.

(g) INITIAL ORGANIZATION REQUIREMENTS.—(1) All appointments to the Commission shall be made not later than 30 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1998.[3]

(2) The Commission shall convene its first meeting not later than 60 days[4] after the date as of which all members of the Commission have been appointed.[5]

**SEC. 1322. DUTIES OF COMMISSION.**

(a) REVIEW OF BALLISTIC MISSILE THREAT.—The Commission shall assess the nature and magnitude of the existing and emerging ballistic missile threat to the United States.

(b) COOPERATION FROM GOVERNMENT OFFICIALS.—In carrying out its duties, the Commission should receive the full and timely

[3] Sec. 1306(a)(1) of Public Law 105–85 (111 Stat. 1955) struck out "not later than 45 days after the date of the enactment of this Act" and inserted in lieu thereof "not later than 30 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1998".

[4] Sec. 1306(a)(2)(A) of Public Law 105–85 (111 Stat. 1955) struck out "30 days" and inserted in lieu thereof "60 days".

[5] Sec. 1306(a)(2)(B) of Public Law 105–85 (111 Stat. 1955) struck out ", but not earlier than October 15, 1996".

cooperation of the Secretary of Defense, the Director of Central Intelligence, and any other United States Government official responsible for providing the Commission with analyses, briefings, and other information necessary for the fulfillment of its responsibilities.

**SEC. 1323. REPORT.**

The Commission shall, not later than six months after the date of its first meeting, submit to the Congress a report on its findings and conclusions.

**SEC. 1324. POWERS.**

(a) HEARINGS.—The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out the provisions of this subtitle, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(b) INFORMATION.—The Commission may secure directly from the Department of Defense, the Central Intelligence Agency, and any other Federal department or agency information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this subtitle.

**SEC. 1325. COMMISSION PROCEDURES.**

(a) MEETINGS.—The Commission shall meet at the call of the Chairman.

(b) QUORUM.—(1) Five members of the Commission shall constitute a quorum other than for the purpose of holding hearings.

(2) The Commission shall act by resolution agreed to by a majority of the members of the Commission.

(c) COMMISSION.—The Commission may establish panels composed of less than full membership of the Commission for the purpose of carrying out the Commission's duties. The actions of each such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

(d) AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this subtitle.

**SEC. 1326. PERSONNEL MATTERS.**

(a) PAY OF MEMBERS.—Members of the Commission shall serve without pay by reason of their work on the Commission.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—(1) The chairman of the Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint a staff director and

such additional personnel as may be necessary to enable the Commission to perform its duties. The appointment of a staff director shall be subject to the approval of the Commission.

(2) The chairman of the Commission may fix the pay of the staff director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title and the rate of pay for other personnel may not exceed the maximum rate payable for grade GS–15 of the General Schedule.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the chairman of the Commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its duties.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title.

**SEC. 1327. MISCELLANEOUS ADMINISTRATIVE PROVISIONS.**

(a) POSTAL AND PRINTING SERVICES.—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(b) MISCELLANEOUS ADMINISTRATIVE AND SUPPORT SERVICES.—The Director of Central Intelligence shall furnish the Commission, on a reimbursable basis, any administrative and support services requested by the Commission.

**SEC. 1328. FUNDING.**

Funds for activities of the Commission shall be provided from amounts appropriated for the Department of Defense for operation and maintenance for Defense-wide activities for fiscal year 1997 and fiscal year 1998.[6] Upon receipt of a written certification from the Chairman of the Commission specifying the funds required for the activities of the Commission, the Secretary of Defense shall promptly disburse to the Commission, from such amounts, the funds required by the Commission as stated in such certification.

**SEC. 1329. TERMINATION OF THE COMMISSION.**

The Commission shall terminate 60 days after the date of the submission of its report under section 1323.

* * * * * * *

[6] Sec. 1306(b) of Public Law 105–85 (111 Stat. 1955) inserted "and fiscal year 1998" after "fiscal year 1997".

## n. National Defense Authorization Act for Fiscal Year 1996

**Partial text of Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; as amended by Public Law 107–314 [Bob Stump National Defense Authorization Act for Fiscal Year 2003; H.R. 4546], 116 Stat. 2458, approved December 2, 2002**

AN ACT To authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

* * * * * * *

## DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

* * * * * * *

## TITLE XIV—ARMS CONTROL MATTERS

### SEC. 1401. REVISION OF DEFINITION OF LANDMINE FOR PURPOSES OF LANDMINE EXPORT MORATORIUM.

Section 1423(d) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1832) is amended—* * *[1]

### SEC. 1402. REPORTS ON MORATORIUM ON USE BY ARMED FORCES OF ANTIPERSONNEL LANDMINES.

Not later than April 30 of each of 1996, 1997, and 1998, the Chairman of the Joint Chiefs of Staff shall submit to the congressional defense committees a report on the projected effects of a moratorium on the defensive use of antipersonnel mines and antitank mines by the Armed Forces. The report shall include a discussion of the following matters:

(1) The extent to which current doctrine and practices of the Armed Forces on the defensive use of antipersonnel mines and antitank mines adhere to applicable international law.

(2) The effects that a moratorium would have on the defensive use of the current United States inventory of remotely delivered, self-destructing antitank systems, antipersonnel mines, and antitank mines.

(3) The reliability of the self-destructing antipersonnel mines and self-destructing antitank mines of the United States.

(4) The cost of clearing the antipersonnel minefields currently protecting Naval Station Guantanamo Bay, Cuba, and other United States installations.

[1] For amended text, see *Legislation on Foreign Relations Through 2008*, vol. I–B.

(5) The cost of replacing antipersonnel mines in such minefields with substitute systems such as the Claymore mine, and the level of protection that would be afforded by use of such a substitute.

(6) The extent to which the defensive use of antipersonnel mines and antitank mines by the Armed Forces is a source of civilian casualties around the world, and the extent to which the United States, and the Department of Defense particularly, contributes to alleviating the illegal and indiscriminate use of such munitions.

(7) The extent to which the threat to the security of United States forces during operations other than war and combat operations would increase as a result of such a moratorium.

**SEC. 1403. EXTENSION AND AMENDMENT OF COUNTER-PROLIFERATION AUTHORITIES.**

(a) ONE-YEAR EXTENSION OF PROGRAM.—Section 1505 of the Weapons of Mass Destruction Control Act of 1992 (title XV of Public Law 102–484; 22 U.S.C. 5859a) is amended—* * *

**SEC. 1404. LIMITATION ON RETIREMENT OR DISMANTLEMENT OF STRATEGIC NUCLEAR DELIVERY SYSTEMS.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that, unless and until the START II Treaty enters into force, the Secretary of Defense should not take any action to retire or dismantle, or to prepare to retire or dismantle, any of the following strategic nuclear delivery systems:

(1) B–52H bomber aircraft.

(2) Trident ballistic missile submarines.

(3) Minuteman III intercontinental ballistic missiles.

(4) Peacekeeper intercontinental ballistic missiles.

(b) LIMITATION ON USE OF FUNDS.—Funds available to the Department of Defense may not be obligated or expended during fiscal year 1996 for retiring or dismantling, or for preparing to retire or dismantle, any of the strategic nuclear delivery systems specified in subsection (a).

**SEC. 1405. CONGRESSIONAL FINDINGS AND SENSE OF CONGRESS CONCERNING TREATY VIOLATIONS.**

(a) REAFFIRMATION OF PRIOR FINDINGS CONCERNING THE KRASNOYARSK RADAR.—Congress, noting its previous findings with respect to the large phased-array radar of the Soviet Union known as the "Krasnoyarsk radar" stated in paragraphs (1) through (4) of section 902(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 101 Stat. 1135) (and reaffirmed in section 1006(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1543)), hereby reaffirms those findings as follows:

(1) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying ballistic missile early warning radars except at locations along the periphery of its national territory and oriented outward.

(2) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying an ABM system to defend its national territory and from providing a base for any such nationwide defense.

(3) Large phased-array radars were recognized during negotiation of the Anti-Ballistic Missile Treaty as the critical long lead-time element of a nationwide defense against ballistic missiles.

(4) In 1983 the United States discovered the construction, in the interior of the Soviet Union near the town of Krasnoyarsk, of a large phased-array radar that has subsequently been judged to be for ballistic missile early warning and tracking.

(b) FURTHER REFERENCE TO 1987 CONGRESSIONAL STATEMENTS.—Congress further notes that in section 902 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 101 Stat. 1135) Congress also—

(1) noted that the President had certified that the Krasnoyarsk radar was an unequivocal violation of the 1972 Anti-Ballistic Missile Treaty; and

(2) stated it to be the sense of the Congress that the Soviet Union was in violation of its legal obligation under that treaty.

(c) FURTHER REFERENCE TO 1989 CONGRESSIONAL STATEMENTS.—Congress further notes that in section 1006(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1543) Congress also—

(1) again noted that in 1987 the President declared that radar to be a clear violation of the 1972 Anti-Ballistic Missile Treaty and noted that on October 23, 1989, the Foreign Minister of the Soviet Union conceded that the Krasnoyarsk radar is a violation of the 1972 Anti-Ballistic Missile Treaty; and

(2) stated it to be the sense of the Congress that the Soviet Union should dismantle the Krasnoyarsk radar expeditiously and without conditions and that until such radar was completely dismantled it would remain a clear violation of the 1972 Anti-Ballistic Missile Treaty.

(d) ADDITIONAL FINDINGS.—Congress also finds, with respect to the Krasnoyarsk radar, that retired Soviet General Y.V. Votintsev, Director of the Soviet National Air Defense Forces from 1967 to 1985, has publicly stated—

(1) that he was directed by the Chief of the Soviet General staff to locate the large phased-array radar at Krasnoyarsk despite the recognition by Soviet authorities that the location of such a radar at that location would be a clear violation of the 1972 Anti-Ballistic Missile Treaty; and

(2) that Marshal D.F. Ustinov, Soviet Minister of Defense, threatened to relieve from duty any Soviet officer who continued to object to the construction of a large-phased array radar at Krasnoyarsk.

(e) SENSE OF CONGRESS CONCERNING SOVIET TREATY VIOLATIONS.—It is the sense of Congress that the government of the Soviet Union intentionally violated its legal obligations under the 1972 Anti-Ballistic Missile Treaty in order to advance its national security interests.

(f) SENSE OF CONGRESS CONCERNING COMPLIANCE BY RUSSIA WITH ARMS CONTROL OBLIGATIONS.—In light of subsections (a) through (e), it is the sense of Congress that the United States should remain vigilant in ensuring compliance by Russia with its arms control obligations and should, when pursuing future arms

control agreements with Russia, bear in mind violations of arms control obligations by the Soviet Union.

**SEC. 1406. SENSE OF CONGRESS ON RATIFICATION OF CHEMICAL WEAPONS CONVENTION AND START II TREATY.**

(a) FINDINGS.—Congress makes the following findings:

(1) Proliferation of chemical or nuclear weapons materials poses a danger to United States national security, and the threat or use of such materials by terrorists would directly threaten United States citizens at home and abroad.

(2) Events such as the March 1995 terrorist release of a chemical nerve agent in the Tokyo subway, the threatened use of chemical weapons during the 1991 Persian Gulf War, and the widespread use of chemical weapons during the Iran-Iraq War of the 1980's are all potent reminders of the menace posed by chemical weapons, of the fact that the threat of chemical weapons is not sufficiently addressed, and of the need to outlaw the development, production, and possession of chemical weapons.

(3) The Chemical Weapons Convention negotiated and signed by President Bush would make it more difficult for would-be proliferators, including terrorists, to acquire or use chemical weapons, if ratified and fully implemented, as signed, by all signatories.

(4) United States military authorities, including Chairman of the Joint Chiefs of Staff General John Shalikashvili, have stated that United States military forces will deter and respond to chemical weapons threats with a robust chemical defense and an overwhelming superior conventional response, as demonstrated in the Persian Gulf War, and have testified in support of the ratification of the Chemical Weapons Convention.

(5) The United States intelligence community has testified that the Convention will provide new and important sources of information, through regular data exchanges and routine and challenge inspections, to improve the ability of the United States to assess the chemical weapons status in countries of concern.

(6) The Convention has not entered into force for lack of the requisite number of ratifications.

(7) Russia has signed the Convention, but has not yet ratified it.

(8) There have been reports by Russian sources of continued Russian production and testing of chemical weapons, including a statement by a spokesman of the Russian Ministry of Defense on December 5, 1994, that "We cannot say that all chemical weapons production and testing has stopped altogether.".

(9) The Convention will impose a legally binding obligation on Russia and other nations that possess chemical weapons and that ratify the Convention to cease offensive chemical weapons activities and to destroy their chemical weapons stockpiles and production facilities.

(10) The United States must be prepared to exercise fully its rights under the Convention, including the request of challenge

inspections when warranted, and to exercise leadership in pursuing punitive measures against violators of the Convention, when warranted.

(11) The United States should strongly encourage full implementation at the earliest possible date of the terms and conditions of the United States-Russia bilateral chemical weapons destruction agreement signed in 1990.

(12) The START II Treaty negotiated and signed by President Bush would help reduce the danger of potential proliferators, including terrorists, acquiring nuclear warheads and materials, and would contribute to United States-Russian bilateral efforts to secure and dismantle nuclear warheads, if ratified and fully implemented as signed by both parties.

(13) It is in the national security interest of the United States to take effective steps to make it more difficult for proliferators or would-be terrorists to obtain chemical or nuclear materials for use in weapons.

(14) The President has urged prompt Senate action on, and advice and consent to ratification of, the START II Treaty and the Chemical Weapons Convention.

(15) The Chairman of the Joint Chiefs of Staff has testified to Congress that ratification and full implementation of both treaties by all parties is in the United States national interest and has strongly urged prompt Senate advice and consent to their ratification.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States, Russia, and all other parties to the START II Treaty and the Chemical Weapons Convention should promptly ratify and fully implement, as negotiated, both treaties.

**SEC. 1407. IMPLEMENTATION OF ARMS CONTROL AGREEMENTS.**

(a) FUNDING.—Of the amounts appropriated pursuant to authorizations in sections 102, 103, 104, 201, and 301, the Secretary of Defense may use an amount not to exceed $239,941,000 for implementing arms control agreements to which the United States is a party.

(b) LIMITATION.—(1) Funds made available pursuant to subsection (a) for the costs of implementing an arms control agreement may not (except as provided in paragraph (2)) be used to reimburse expenses incurred by any other party to the agreement for which (without regard to any executive agreement or any policy not part of an arms control agreement)—

(A) the other party is responsible under the terms of the arms control agreement; and

(B) the United States has no responsibility under the agreement.

(2) The limitation in paragraph (1) does not apply to a use of funds to carry out an arms control expenses reimbursement policy of the United States described in subsection (c).

(c) COVERED ARMS CONTROL EXPENSES REIMBURSEMENT POLICIES.—Subsection (b)(2) applies to a policy of the United States to reimburse expenses incurred by another party to an arms control agreement if—

(1) the policy does not modify any obligation imposed by the arms control agreement;

(2) the President—

(A) issued or approved the policy before the date of the enactment of this Act; or

(B) entered into an agreement on the policy with the government of another country or approved an agreement on the policy entered into by an official of the United States and the government of another country; and

(3) the President has notified the designated congressional committees of the policy or the policy agreement (as the case may be), in writing, at least 30 days before the date on which the President issued or approved the policy or has entered into or approved the policy agreement.

(d) DEFINITIONS.—For the purposes of this section:

(1) The term "arms control agreement" means an arms control treaty or other form of international arms control agreement.

(2) The term "executive agreement" means an international agreement entered into by the President that is not authorized by law or entered into as a Treaty to which the Senate has given its advice and consent to ratification.

(3) The term "designated congressional committees" means the following:

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

(B) The Committee on International Relations, the Committee on National Security, and the Committee on Appropriations of the House of Representatives.

**SEC. 1408. IRAN AND IRAQ ARMS NONPROLIFERATION.**

(a) SANCTIONS AGAINST TRANSFERS OF PERSONS.—Section 1604(a) of the Iran-Iraq Arms Non-Proliferation Act of 1992 (title XVI of Public Law 102–484; 50 U.S.C. 1701 note) is amended * * *

(b) SANCTIONS AGAINST TRANSFERS OF FOREIGN COUNTRIES.—Section 1605(a) of such Act is amended * * *

(c) CLARIFICATION OF UNITED STATES ASSISTANCE.—Subparagraph (A) of section 1608(7) of such Act is amended * * *

(d) NOTIFICATION OF CERTAIN WAIVERS UNDER MTCR PROCEDURES.—Section 73(e)(2) of the Arms Export Control Act (22 U.S.C. 2797b(e)(2)) is amended—* * *[2]

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## DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

## TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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[2] See *Legislation on Foreign Relations Through 2008*, vol. I–A.

## Subtitle C—Program Authorizations, Restrictions, and Limitations

### SEC. 3131. AUTHORITY TO CONDUCT PROGRAM RELATING TO FISSILE MATERIALS.

(a)[3] The Secretary of Energy may conduct programs designed to improve the protection, control, and accountability of fissile materials in Russia.

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[3] Sec. 3152(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2738) struck out "AUTHORITY.—" from the beginning of this subsection, and sec. 3152(2) of that Act struck out subsec. (b), which formerly read as follows:

"(b) SEMI-ANNUAL REPORTS ON OBLIGATION OF FUNDS.—(1) Not later than 30 days after the date of the enactment of this Act, and thereafter not later than April 1 and October 1 of each year, the Secretary of Energy shall submit to Congress a report on each obligation during the preceding six months of funds appropriated for a program described in subsection (a).

"(2) Each such report shall specify—

"(A) the activities and forms of assistance for which the Secretary of Energy has obligated funds;

"(B) the amount of the obligation;

"(C) the activities and forms of assistance for which the Secretary anticipates obligating funds during the six months immediately following the report, and the amount of each such anticipated obligation; and

"(D) the projected involvement (if any) of any department or agency of the United States (in addition to the Department of Energy) and of the private sector of the United States in the activities and forms of assistance for which the Secretary of Energy has obligated funds referred to in subparagraph (A).".

## o. National Defense Authorization Act for Fiscal Year 1995

**Partial text of Public Law 103–337 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663 at 2882, approved October 5, 1994; as amended by Public Law 104–201 [National Defense Authorization Act For Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; Public Law 106–65 [National Defense Authorization Act for Fiscal Year 2000; S. 1059], 111 Stat. 512, approved October 5, 1999; Public Law 107–314 [Bob Stump National Defense Authorization Act for Fiscal Year 2003; H.R. 4546], 116 Stat. 2458, approved December 2, 2002; Public Law 108–375 [Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005; H.R. 4200], 118 Stat. 1811, approved October 28, 2004; and Public Law 110–181 [National Defense Authorization Act for Fiscal Year 2008; H.R. 4986], 122 Stat. 3, approved January 28, 2008**

AN ACT To authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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## DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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## TITLE XV—ARMS CONTROL MATTERS

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**SEC. 1503.[1] REPORTS ON COUNTERPROLIFERATION ACTIVITIES AND PROGRAMS.**

(a) BIENNIAL[2] REPORT REQUIRED.—Not later than May 1 each odd-numbered year,[3] the Secretary[4] of Defense shall submit to Congress a report of the findings of the Counterproliferation Program Review Committee established by subsection (a) of the Review Committee charter.

(b) CONTENT OF REPORT.—Each report under subsection (a) shall include the following:

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[1] 22 U.S.C. 2751 note.

[2] Sec. 1256(d)(1)(A) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 404) struck out "ANNUAL" and inserted in lieu thereof "BIENNIAL".

[3] Sec. 1208(b) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2668) struck out "February 1 of each year" and inserted in lieu thereof "May 1 each year". Subsequently, sec. 1256(d)(1)(B) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 404) struck out "each year" and inserted in lieu thereof "each odd-numbered year".

[4] Sec. 1504(c) of Public Law 106–65 (113 Stat. 808) struck out "May 1 of each year" and inserted in lieu thereof "February 1 of each year". Previously, sec. 1309(d)(1)(A) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2710) struck out "REPORT REQUIRED.—(1) Not later than May 1, 1995 and May 1, 1996, the Secretary" and inserted in lieu thereof "ANNUAL REPORT REQUIRED.—Not later than May 1 of each year, the Secretary". Sec. 1309(d)(1)(B) of that Act struck out para. (2).

(1) A complete list, by specific program element, of the existing, planned, or newly proposed capabilities and technologies reviewed by the Review Committee pursuant to subsection (c) of the Review Committee charter.

(2) A complete description of the requirements and priorities established by the Review Committee.

(3) A comprehensive discussion of the near-term, mid-term, and long-term programmatic options formulated by the Review Committee for meeting requirements prescribed by the Review Committee and for eliminating deficiencies identified by the Review Committee, including the annual funding requirements and completion dates established for each such option.

(4) An explanation of the recommendations made pursuant to subsection (c) of the Review Committee charter, together with a full discussion of the actions taken to implement such recommendations or otherwise taken on the recommendations.

(5) A discussion and assessment of the status of each Review Committee recommendation during the two fiscal years preceding[5] the fiscal year in which the report is submitted, including, particularly, the status of recommendations made during such preceding fiscal years[5] that were reflected in the budget submitted to Congress pursuant to section 1105(a) of title 31, United States Code, in the fiscal year of the report.

(6) Each specific Department of Energy program that the Secretary of Energy plans to develop to initial operating capability and each such program that the Secretary does not plan to develop to initial operating capability.

(7) For each technology program scheduled to reach initial operational capability, a recommendation from the Chairman of the Joint Chiefs of Staff that represents the views of the commanders of the unified and specified commands regarding the utility and requirement of the program.

(8)[6] A discussion of the limitations and impediments to the biological weapons counterproliferation efforts of the Department of Defense (including legal, policy, and resource constraints) and recommendations for the removal or mitigation of such impediments and for ways to make such efforts more effective.

(c) FORMS OF REPORT.—Each such report shall be submitted in both unclassified and classified forms, including an annex to the classified report for special compartmented information programs, special access programs, and special activities programs.

(d)[7] REVIEW COMMITTEE CHARTER DEFINED.—For purposes of this section, the term "Review Committee charter" means section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note).

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[5] Sec. 1256(d)(2)(A) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 404) struck out "fiscal year preceding" and inserted in lieu thereof "two fiscal years preceding". Sec. 1256(d)(2)(B) struck out "preceding fiscal year" and inserted in lieu thereof "preceding fiscal years".

[6] Sec. 1208(c) of the National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2668) added para. (8).

[7] Sec. 1309(d)(2) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2710) added subsecs. (d) and (e).

(e)[7] TERMINATION OF REQUIREMENT.—The final report required under subsection (a) is the report for the year following the year in which the Counterproliferation Program Review Committee established under the Review Committee Charter ceases to exist.

**SEC. 1504. AMOUNTS FOR COUNTERPROLIFERATION ACTIVITIES.**

(a) COUNTERPROLIFERATION ACTIVITIES.—Of the amount authorized to be appropriated in section 201(4), $16,500,000 shall be available for counterproliferation activities.

(b) LIMITATION.—(1) Of the funds made available pursuant to subsection (a), $4,000,000 may not be obligated until the Secretary of Defense submits to Congress a report on a proposed classified counterproliferation database system. The report shall provide—

(A) an assessment of current major databases and software capabilities of entities in the intelligence community and of national weapons laboratories and laboratories of the Armed Forces against capabilities defined in the proposed project; and

(B) an assessment of the technical feasibility of the proposed system, program plan, strategy, milestones and future year funding.

(2) No funds may be obligated for the database system described in the report until the Secretary of Defense and the Director of Central Intelligence enter into a written agreement concerning the program to develop that database system that provides—

(A) how funding for that program is to be divided between (i) the account of the National Foreign Intelligence Program, and (ii) Tactical Intelligence and Related Program accounts; and

(B) a plan for the sources of funds for, and the programmed amounts for, that program for fiscal years after fiscal year 1995.

(c) EDUCATION IN SUPPORT OF COUNTERPROLIFERATION ACTIVITIES.—Of the amount authorized to be appropriated in section 301(5), not more than $2,000,000 shall be available for providing education to members of the Armed Forces in matters relating to counterproliferation.

(d) ADDITIONAL AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) In addition to the transfer authority provided in section 1001, upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1995 to counterproliferation programs, projects, and activities identified as areas for progress by the Counterproliferation Program Review Committee established by section 1605 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160), as amended by section 1502. Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this subsection may not exceed $100,000,000.

(3) The authority provided by this subsection to transfer authorizations—

(A) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(B) may not be used to provide authority for an item that has been denied authorization by Congress.

(4) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(5) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this subsection.

(e) USE OF FUNDS FOR TECHNOLOGY DEVELOPMENT.—(1) Of the funds authorized to be appropriated by section 201(4) for counterproliferation technology projects—

(A) up to $5,000,000 shall be available for a program to detect, locate, and disarm weapons of mass destruction that are hidden by a hostile state or terrorist or terrorist group in a confined area outside the United States; and

(B) up to $10,000,000 shall be available for the training program referred to in paragraph (3).

(2) The Secretary of Defense shall make funds available for the program referred to in paragraph (1)(A) in a manner that, to the maximum extent practicable, ensures the effective use of existing resources of the national weapons laboratories.

(3)(A) The Secretary of Defense may participate in a[8] training program carried out jointly by the Secretary of Defense and the Director of the Federal Bureau of Investigation in order to expand and improve United States efforts to deter the possible proliferation and acquisition of[9] weapons of mass destruction by organized crime organizations in Eastern Europe, the Baltic countries,[10] states of the former Soviet Union, and in other countries in which, as determined by the Secretary of Defense, there exists a significant threat of such proliferation and acquisition.[11]

(B) Of the funds available under paragraph (1)(B) for the program referred to in subparagraph (A), $9,000,000 may not be obligated or expended for that program until the Secretary of Defense and the Director of the Federal Bureau of Investigation jointly submit to the congressional committees specified in subparagraph (C) a report that—

(i) identifies the nature and extent of the threat posed to the United States by the possible proliferation and acquisition of weapons of mass destruction by organized crime organizations in Eastern Europe, the Baltic countries, and states of the former Soviet Union;

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[8] Sec. 1211(b)(1) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2087) struck out "The training program referred to in paragraph (1)(B) is a" and inserted in lieu thereof "The Secretary of Defense may participate in a".

[9] Sec. 1211(b)(2) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2087) added "of" after "acquisition".

[10] Sec. 1211(b)(3) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2087) struck out "and" after "countries,".

[11] Sec. 1211(b)(4) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2087) added ", and in other countries in which, as determined by the Secretary of Defense, there exists a significant threat of such proliferation and acquisition".

(ii) assesses the actions that the United States should undertake in order to assist law enforcement agencies of Eastern Europe, the Baltic countries, and states of the former Soviet Union in the efforts of such agencies to prevent and deter the theft of nuclear weapons material; and

(iii) contains an estimate of—

(I) the cost of undertaking such actions, including the costs of personnel, support equipment, and training;

(II) the time required to commence the carrying out of the program referred to in paragraph (1)(B); and

(III) the amount of funds, if any, that will be required in fiscal years after fiscal year 1995 in order to carry out the program.

(C) The congressional committees referred to in this subparagraph are the following:

(i) The Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Affairs of the House of Representatives.[12]

(ii) The Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Relations of the Senate.

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**SEC. 1506. RESTRICTION RELATING TO SUBMISSION OF REPORT ON PROLIFERATION OF FOREIGN MILITARY SATELLITES.**

None of the funds available to the Department of Defense may be expended for travel by the Assistant Secretary of Defense for International Security Policy until the Secretary of Defense submits to Congress the report required by section 1363 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2560).

**SEC. 1507. LIMITATION ON FUNDS FOR STUDIES PENDING RECEIPT OF PREVIOUSLY REQUIRED REPORT.**

(a) LIMITATION.—Of the total amount specified in section 1505 for counterproliferation activities for fiscal year 1995, $1,000,000 shall be withheld from obligation until the report described in subsection (b) has been submitted to Congress.

(b) REPORT.—The report referred to in subsection (a) is the report required to be submitted to Congress not later than May 30, 1994, pursuant to section 1422 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1829).

**SEC. 1508. SENSE OF CONGRESS CONCERNING INDEFINITE EXTENSION OF NUCLEAR NON-PROLIFERATION TREATY.**

(a) FINDINGS.—Congress makes the following findings:

(1) The Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, D.C., London, and Moscow on July 1, 1968, is the centerpiece of global efforts to prevent the spread of nuclear weapons.

[12] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

(2) The United States has demonstrated longstanding support for that treaty and related efforts to prevent the spread of nuclear weapons.

(3) President Clinton has declared that preventing the spread of nuclear weapons is one of the highest priorities of his Administration.

(4) In April 1995, the parties to the Treaty on the Non-Proliferation of Nuclear Weapons will convene a conference in New York City to discuss the indefinite extension of the treaty.

(5) The policy of the President is to seek at that conference the indefinite and unconditional extension of that treaty.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President has the full support of Congress in seeking the indefinite and unconditional extension of the Treaty on the Non-Proliferation of Nuclear Weapons;

(2) the President, when formulating and implementing other elements of nonproliferation policy of the United States (including United States counterproliferation doctrine, the Nuclear Posture Review, and nuclear testing policy), should take into account the objectives of the United States at the 1995 conference of the parties to the Treaty on the Non-Proliferation of Nuclear Weapons; and

(3) the President and the President's senior national security advisers should dedicate themselves to ensuring the indefinite and unconditional extension of the Treaty on the Non-Proliferation of Nuclear Weapons at the 1995 conference for that treaty.

**SEC. 1509. NEGOTIATION OF LIMITATIONS ON NUCLEAR WEAPONS TESTING.**

(a) FINDINGS.—Congress makes the following findings:

(1) On January 25, 1994, the United States and 37 other nations began negotiations for a comprehensive treaty to ban permanently all nuclear weapons testing.

(2) On March 14, 1994, the President extended the current United States moratorium on nuclear weapons testing through September 1995.

(3) The United States is seeking to extend indefinitely the Treaty on the Non-Proliferation of Nuclear Weapons at the conference of the parties to the Treaty to be held in New York City in April 1995.

(4) Conclusion of a comprehensive nuclear test ban treaty could contribute toward successful negotiations to extend the Treaty on the Non-Proliferation of Nuclear Weapons.

(5) Agreements to eliminate nuclear weapons testing and to control the spread of nuclear weapons could contribute to the national security of the United States, its allies, and other nations around the world.

(b) STATEMENT OF CONGRESSIONAL POLICY.—In view of the findings set forth in subsection (a), Congress—

(1) applauds the President for maintaining the United States moratorium on nuclear weapons testing and for taking a leadership role toward negotiation of a comprehensive nuclear test ban treaty;

(2) encourages all nuclear powers to refrain from conducting nuclear explosions, before the conclusion of a comprehensive nuclear test ban treaty; and

(3) urges the Conference on Disarmament to make all possible progress toward a comprehensive nuclear test ban treaty by the end of 1994.

## p. National Defense Authorization Act for Fiscal Year 1994

**Partial text of Public Law 103–160 [H.R. 2401], 107 Stat. 1547 at 1841, approved November 30, 1993; as amended by Public Law 103–337 [National Defense Authorization for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994; Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; Public Law 104–201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; Public Law 106–65 [National Defense Authorization Act for Fiscal Year 2000; S. 1019], 114 Stat. 512, approved October 5, 1999; Public Law 107–314 [Bob Stump National Defense Authorization Act for Fiscal Year 2003; H.R. 4546], 116 Stat. 2458, approved December 2, 2002; Public Law 109–163 [National Defense Authorization Act for Fiscal Year 2006; H.R. 1815], 119 Stat. 3136, approved January 6, 2006; and Public Law 110–181 [National Defense Authorization Act for Fiscal Year 2008; H.R. 4986], 122 Stat. 3, approved January 28, 2008**

AN ACT To authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1994".

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## DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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## TITLE XVI—ARMS CONTROL MATTERS

### Subtitle A—Programs in Support of the Prevention and Control of Proliferation of Weapons of Mass Destruction

**SEC. 1601. STUDY OF GLOBAL PROLIFERATION OF STRATEGIC AND ADVANCED CONVENTIONAL MILITARY WEAPONS AND RELATED EQUIPMENT AND TECHNOLOGY.**

(a) STUDY.—The President shall conduct a study of (1) the factors that contribute to the proliferation of strategic and advanced conventional military weapons and related equipment and technologies, and (2) the policy options that are available to the United States to inhibit such proliferation.

(b) CONDUCT OF STUDY.—In carrying out the study the President shall do the following:

(1) Identify those factors contributing to global weapons proliferation which can be most effectively regulated.

(2) Identify and assess policy approaches available to the United States to discourage the transfer of strategic and advanced conventional military weapons and related equipment and technology.

(3) Assess the effectiveness of current multilateral efforts to control the transfer of such military weapons and equipment and such technology.

(4) Identify and examine methods by which the United States could reinforce these multilateral efforts to discourage the transfer of such weapons and equipment and such technology, including placing conditions on assistance provided by the United States to other nations.

(5) Identify the circumstances under which United States national security interests might best be served by a transfer of conventional military weapons and related equipment and technology, and specifically assess whether such circumstances exist when such a transfer is made to an allied country which, with the United States, has mutual national security interests to be served by such a transfer.

(6) Assess the effect on the United States economy and the national technology and industrial base (as defined by section 2491(1) of title 10, United States Code) which might result from potential changes in United States policy controlling the transfer of such military weapons and related equipment and technology.

(c) ADVISORY BOARD.—(1) Within 15 days after the date of the enactment of this Act, the President shall establish an Advisory Board on Arms Proliferation Policy. The advisory board shall be composed of 5 members. The President shall appoint the members from among persons in private life who are noted for their stature and expertise in matters covered by the study required under subsection (a) and shall ensure, in making the appointments, that the advisory board is composed of members from diverse backgrounds. The President shall designate one of the members as chairman of the advisory board.

(2) The President is encouraged—

(A) to obtain the advice of the advisory board regarding the matters studied pursuant to subsection (a) and to consider that advice in carrying out the study; and

(B) to ensure that the advisory board is informed in a timely manner and on a continuing basis of the results of policy reviews carried out under the study by persons outside the board.

(3) The members of the advisory board shall receive no pay for serving on the advisory board. However, the members shall be allowed travel expenses and per diem in accordance with the regulations referred to in paragraph (6).

(4) Upon request of the chairman of the advisory board, the Secretary of Defense or the head of any other Federal department or agency may detail, without reimbursement for costs, any of the personnel of the department or agency to the advisory board to assist the board in carrying out its duties.

(5) The Secretary of Defense shall designate a federally funded research and development center with expertise in the matters covered by the study required under subsection (a) to provide the advisory board with such support services as the advisory board may need to carry out its duties.

(6) Except as otherwise provided in this section, the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), and the regulations prescribed by the Administrator of General Services pursuant to that Act, shall apply to the advisory board. Subsections (e) and (f) of section 10 of such Act do not apply to the advisory board.

(7) The advisory board shall terminate 30 days after the date on which the President submits the final report of the advisory board to Congress pursuant to subsection (d)(2)(B).

(d) REPORTS.—(1) The Advisory Board on Arms Proliferation Policy shall submit to the President, not later than May 15, 1994, a report containing its findings, conclusions, and recommendations on the matters covered by the study carried out pursuant to subsection (a).

(2) The President shall submit to Congress, not later than June 1, 1994—

(A) a report on the study carried out pursuant to subsection (a), including the President's findings and conclusions regarding the matters considered in the study; and

(B) the report of the Advisory Board on Arms Proliferation Policy received under paragraph (1), together with the comments, if any, of the President on that report.

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**SEC. 1603. STUDIES RELATING TO UNITED STATES COUNTERPROLIFERATION POLICY.**

(a) AUTHORIZATION TO CONDUCT STUDIES.—The Secretary[1] of Defense may conduct studies and analysis programs in support of the counterproliferation policy of the United States.

(b) COUNTERPROLIFERATION STUDIES.—Studies and analysis programs under this section may include programs intended to explore defense policy issues that might be involved in efforts to prevent and counter the proliferation of weapons of mass destruction and their delivery systems. Such efforts include—

(1) enhancing United States military capabilities to deter and respond to terrorism, theft, and proliferation involving weapons of mass destruction;

(2) cooperating in international programs to enhance military capabilities to deter and respond to terrorism, theft, and proliferation involving weapons of mass destruction; and

(3) otherwise contributing to Department of Defense capabilities to deter, identify, monitor, and respond to such terrorism, theft, and proliferation involving weapons of mass destruction.

(c) DESIGNATION OF COORDINATOR.—The Under Secretary of Defense for Policy, subject to the supervision and control of the Secretary of Defense, shall coordinate the policy studies and analysis of the Department of Defense on countering proliferation of weapons of mass destruction and their delivery systems.

[1] Sec. 1505(a) of Public Law 103–337 (108 Stat. 2919) struck out "During fiscal year 1994, the Secretary" and inserted in lieu thereof "The Secretary".

(d)[2] REPORT.—Not later than April 30 of each year,[3] the Secretary of Defense shall submit to the appropriate congressional committees a report on the activities carried out under subsection (a). Each report shall set forth for the twelve-month[4] period ending on the last day of the month preceding the month in which the report is due the following:

(1) A description of the studies and analysis carried out.

(2) The amounts spent for such studies and analysis.

(3) The organizations that conducted the studies and analysis.

(4) An explanation of the extent to which such studies and analysis contribute[5] to the counterproliferation policy of the United States and United States military capabilities to deter and respond to terrorism, theft, and proliferation involving weapons of mass destruction.

(5) A description of the measures being taken to ensure that such studies and analysis within the Department of Defense are[6] managed effectively and coordinated comprehensively.

**SEC. 1604. SENSE OF CONGRESS REGARDING UNITED STATES CAPABILITIES TO PREVENT AND COUNTER WEAPONS PROLIFERATION.**

It is the sense of Congress that—

(1) the United States should have the ability to counter effectively potential threats to United States interests that arise from the proliferation of such weapons;

(2) the Department of Defense, the Department of State, the Department of Energy, the Arms Control and Disarmament Agency, and the intelligence community have important roles, as well as unique capabilities and expertise, in preventing the proliferation of weapons of mass destruction and dealing with the consequences of any proliferation of such weapons, including capabilities and expertise regarding—

(A) detection and monitoring of proliferation of weapons of mass destruction;

(B) development of effective export control regimes;

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[2] Sec. 1505(b) of Public Law 103–337 (108 Stat. 2919) struck out subsecs. (d) and (e), and redesignated former subsec. (f) as subsec. (d). Former subsecs. (d) and (e) read as follows:

"(d) FUNDS.—Funds for programs authorized in this section shall be derived from amounts made available to the Department of Defense for fiscal year 1994 or from balances in working capital accounts of the Department of Defense. The total amount expended for fiscal year 1994 to carry out studies and analysis programs under subsection (a) may not exceed $6,000,000.

"(e) RESTRICTION.—None of the funds referred to in subsection (d) shall be available for the purposes stated in this section until 15 days after the date on which the Secretary of Defense submits to the appropriate congressional committees a report setting forth—

"(1) a description of all of the activities within the Department of Defense that are being carried out or are to be carried out for the purposes stated in this section;

"(2) the plan for coordinating and integrating those activities within the Department of Defense;

"(3) the plan for coordinating and integrating those activities with those of other Federal agencies; and

"(4) the sources of the funds to be used for such purposes.".

[3] Sec. 1505(b)(3)(A) of Public Law 103–337 (108 Stat. 2919) struck out "and not later than October 30 of each year" at this point. Sec. 1504(b)(1) of Public Law 104–106 (110 Stat. 513) struck out a second comma at this point.

[4] Sec. 1505(b)(3)(B) of Public Law 103–337 (108 Stat. 2919) struck out "six-month" and inserted in lieu thereof "twelve-month".

[5] Sec. 1504(b)(2) of Public Law 104–106 (110 Stat. 513) struck out "contributes" and inserted in lieu thereof "contribute".

[6] Sec. 1504(b)(3) of Public Law 104–106 (110 Stat. 513) struck out "is" and inserted in lieu thereof "are".

(C) interdiction and destruction of weapons of mass destruction and related weapons material; and

(D) carrying out international monitoring and inspection regimes that relate to proliferation of such weapons and material;

(3) the Department of Defense, the Department of Energy, and the intelligence community have unique capabilities and expertise that contribute directly to the ability of the United States to implement United States policy to counter effectively the threats that arise from the proliferation of weapons of mass destruction, including capabilities and expertise regarding—

(A) responses to terrorism, theft, or accidents involving weapons of mass destruction;

(B) conduct of intrusive international inspections for verification of arms control treaties;

(C) direct and discrete counterproliferation actions that require use of force; and

(D) development and deployment of active military countermeasures and protective measures against threats resulting from arms proliferation, including defenses against ballistic missile attacks; and

(4) the United States should continue to maintain and improve its capabilities to identify, monitor, and respond to the proliferation of weapons of mass destruction and delivery systems for such weapons.

**SEC. 1605.[7] JOINT COMMITTEE FOR REVIEW OF COUNTERPROLIFERATION[8] PROGRAMS OF THE UNITED STATES.**

(a) ESTABLISHMENT.—(1) There is hereby established a Counterproliferation Program Review Committee[9] composed of the following members:

(A) The Secretary of Defense.

(B)[9] The Secretary of Energy.

(C)[9] The Director of National Intelligence.[10]

(D)[9] The Chairman of the Joint Chiefs of Staff.

(E)[11] The Secretary of State.

(F)[11] The Secretary of Homeland Security.

(2) The Secretary of Defense shall chair the committee. The Secretary of Energy shall serve as the Vice Chairman of the committee.[12]

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[7] 22 U.S.C. 2751 note.

[8] Sec. 1502(f) of Public Law 103–337 (108 Stat. 2916) struck out "**PROLIFERATION**" from the section catchline, inserting in lieu thereof "**COUNTERPROLIFERATION**".

[9] Sec. 1502(a)(1)(A) of Public Law 103–337 (108 Stat. 2915) struck out "Non-Proliferation Program Review Committee" and inserted in lieu thereof "Counterproliferation Program Review Committee". Subpara. (B) of that section struck out subparas. (B) and (E) from this subsection, which referred to "(B) The Secretary of State", and "(E) The Director of the United States Arms Control and Disarmament Agency". Subpara. (C) of that section subsequently redesignated subparas. (C), (D), and (F) as (B), (C), and (D).

[10] Sec. 1256(a)(1) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 403) struck out "Director of Central Intelligence" and inserted in lieu thereof "Director of National Intelligence".

[11] Sec. 1256(a)(2) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 403) added subparas. (E) and (F).

[12] Sec. 1502(a)(2) of Public Law 103–337 (108 Stat. 2915) added "The Secretary of Energy shall serve as the Vice Chairman of the committee.".

(3) A member of the committee may designate a representative to perform routinely the duties of the member. A representative shall be in a position of Deputy Assistant Secretary or a position equivalent to or above the level of Deputy Assistant Secretary. A representative of the Chairman of the Joint Chiefs of Staff shall be a person in a grade equivalent to that of Deputy Assistant Secretary of Defense.

(4) The Secretary of Defense may delegate to the Under Secretary of Defense for Acquisition, Technology, and Logistics[13] the performance of the duties of the Chairman of the committee. The Secretary of Energy may delegate to the Under Secretary of Energy responsible for national security programs of the Department of Energy the performance of the duties of the Vice Chairman of the committee.[14]

(5)[15] The Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs shall serve as executive secretary to the committee, except that during any period during which that position is vacant the Assistant Secretary of Defense for Strategy and Threat Reduction shall serve as the executive secretary.

(b) PURPOSES OF THE COMMITTEE.—The purposes of the committee are as follows:

(1) To optimize funding for, and ensure the development and deployment of—

(A) highly effective technologies and capabilities for the detection, monitoring, collection, processing, analysis, and dissemination of information in support of United States counterproliferation policy[16] and efforts, including efforts to stem the proliferation of weapons of mass destruction and to negate paramilitary and terrorist threats involving weapons of mass destruction;[17] and

(B) disabling technologies in support of such policy.

(2) To identify and eliminate undesirable redundancies or uncoordinated efforts in the development and deployment of such technologies and capabilities.

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[13] Sec. 1208(d) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2668) struck out "Under Secretary of Defense for Acquisition and Technology" and inserted in lieu thereof "Under Secretary of Defense for Acquisition, Technology, and Logisitics". Sec. 1056(f) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3440) struck out "Logisitics" and inserted in lieu thereof "Logistics".

[14] Sec. 1502(a)(3) of Public Law 103–337 (108 Stat. 2915) added this sentence to para. (4). Para. (4) of that subsection struck out para. (5), which read as follows:

"(5) The members of the committee shall first meet not later than 30 days after the date of the enactment of this Act. Upon designation of working level officials and representatives, the members of the committee shall jointly notify the appropriate committees of Congress that the committee has been constituted. The notification shall identify the representatives designated pursuant to paragraph (3) and the working level officials of the committee.".

[15] Sec. 1309(a) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2710) added para. (5). It was subsequently amended and restated by sec. 1504(b) of Public Law 106–65 (113 Stat. 808). As originally enacted, the paragraph had read as follows:

"(5) The Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs shall serve as executive secretary to the committee.".

[16] Sec. 1502(b)(1) of Public Law 103–337 (108 Stat. 2915) struck out "nonproliferation policy" and inserted in lieu thereof "counterproliferation policy".

[17] Sec. 1309(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2710) inserted "and efforts, including efforts to stem the proliferation of weapons of mass destruction and to negate paramilitary and terrorist threats involving weapons of mass destruction" after "counterproliferation policy".

(3)[18] To establish priorities for programs and funding.

(4)[18] To encourage and facilitate interagency and interdepartmental funding of programs in order to ensure necessary levels of funding to develop, operate, and field highly-capable systems.

(5)[18] To ensure that Department of Energy programs are integrated with the operational needs of other departments and agencies of the Government.

(6)[18] To ensure that Department of Energy national security programs include technology demonstrations and prototype development of equipment.

(c) DUTIES.—The committee shall—

(1) identify and review existing and proposed capabilities and technologies for support of United States nonproliferation policy and counterproliferation policy[19] with regard to—

(A) intelligence;

(B) battlefield surveillance;

(C) passive defenses;

(D) active defenses; and[20]

(E) counterforce capabilities;

(2)[21] prescribe requirements and priorities for the development and deployment of highly effective capabilities and technologies;[22]

(3)[21] identify deficiencies in existing capabilities and technologies;

(4)[21] formulate near-term, mid-term, and long-term programmatic options for meeting requirements established by the committee and eliminating deficiencies identified by the committee; and

(5)[23] assess each fiscal year the effectiveness of the committee actions during the preceding fiscal year, including, particularly, the status of recommendations made during such preceding fiscal year that were reflected in the budget submitted to Congress pursuant to section 1105(a) of title 31,

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[18] Sec. 1502(b)(2) of Public Law 103–337 (108 Stat. 2915) added paras. (3) through (6).

[19] Sec. 1502(c)(1)(A) of Public Law 103–337 (108 Stat. 2915) struck out "(including counterproliferation capabilities) and technologies for support of United States nonproliferation policy" and inserted in lieu thereof "and technologies for support of United States nonproliferation policy and counterproliferation policy".

[20] Sec. 1502(c)(1) of Public Law 103–337 (108 Stat. 2915) added "and" at the end of subpara. (D), and struck out subparas. (F) and (G), which had referred to inspection support and support of export control programs.

[21] Sec. 1502(c)(2) and (4) of Public Law 103–337 (108 Stat. 2915) struck out paras. (2), (3), and (7), and redesignated paras. (4), (5), and (6) as paras. (2), (3), and (4). Paras. (2), (3), and (7) formerly provided as follows:

"(2) as part of the review pursuant to paragraph (1), review all directed energy and laser programs for detecting, characterizing, or interdicting weapons of mass destruction, their delivery platforms, or other orbiting platforms with a view to the elimination of redundancy and the optimization of funding for the systems not eliminated;

"(3) review the programs (including the crisis management program) developed by the Department of State to counter terrorism involving weapons of mass destruction and their delivery systems;

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"(7) in carrying out the other duties of the committee, ensure that all types of counterproliferation actions are considered.".

[22] Sec. 1502(c)(3) of Public Law 103–337 (108 Stat. 2915) struck out "to support fully the nonproliferation policy of the United States" after "technologies" in para. (2) (redesignated from para. (4)).

[23] Sec. 1502(c)(5) of Public Law 103–337 (108 Stat. 2915) added para. (5).

United States Code, for the fiscal year following the fiscal year in which the assessment is made.

(d) ACCESS TO INFORMATION.—The committee shall have access to information on all programs, projects, and activities of the Department of Defense, the Department of State, the Department of Energy, the Department of State, the Department of Homeland Security,[24] the intelligence community, and the Arms Control and Disarmament Agency that are pertinent to the purposes and duties of the committee.

(e)[25] RECOMMENDATIONS.—The committee shall submit to the President and the heads of all appropriate departments and agencies of the Government such programmatic recommendations regarding existing, planned, or new programs as the committee considers appropriate to encourage funding for capabilities and technologies at the level necessary to support United States counterproliferation policy.

(f) TERMINATION OF COMMITTEE.—The committee shall cease to exist at the end of September 30, 2013.[26]

**SEC. 1606. REPORT ON NONPROLIFERATION AND COUNTERPROLIFERATION ACTIVITIES AND PROGRAMS.**

(a) REPORT REQUIRED.—Not later than May 1, 1994, the Secretary of Defense shall submit to Congress a report on the findings of the committee on nonproliferation activities established by section 1605.

(b) CONTENT OF REPORT.—The report shall include the following matters:

(1) A complete list, by program, of the existing, planned, and proposed capabilities and technologies reviewed by the committee, including all directed energy and laser programs reviewed pursuant to section 1605(c)(2).

(2) A complete description of the requirements and priorities established by the committee.

(3) A comprehensive discussion of the near-term, mid-term, and long-term programmatic options formulated by the committee for meeting requirements prescribed by the committee and eliminating deficiencies identified by the committee, including the annual funding requirements and completion dates established for each such option.

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[24] Sec. 1256(b) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 403) added "the Department of State, the Department of Homeland Security,".

[25] Sec. 1502(d) of Public Law 103–337 (108 Stat. 2916) amended and restated subsec. (e). It formerly read as follows:

"(e) BUDGET RECOMMENDATIONS.—The committee may submit to the officials referred to in subsection (a) any recommendation regarding existing or planned budgets as the committee considers appropriate to encourage funding for capabilities and technologies at the level necessary to support United States nonproliferation policy.".

[26] Sec. 1502(e) of Public Law 103–337 (108 Stat. 2916) struck out "six months after the date on which the report of the Secretary of Defense under section 1606 is submitted to Congress", and inserted in lieu thereof "at the end of September 30, 1996". Sec. 1309(c) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2710) struck out "September 30, 1996" and inserted in lieu thereof "September 30, 2000". Sec. 1504(a) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 808) struck out "September 30, 2000" and inserted in lieu thereof "September 30, 2004". Sec. 1208(a) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2668) struck out "September 30, 2004" and inserted in lieu thereof "September 30, 2008". Sec. 1256(c) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 403) struck out "2008" and inserted in lieu thereof "2013".

(4) An explanation of the recommendations made pursuant to section 1605(e) and a full discussion of the actions taken on such recommendations, including the actions taken to implement the recommendations.

(5) A discussion of the existing and planned capabilities of the Department of Defense—

(A) to detect and monitor clandestine programs for the acquisition or production of weapons of mass destruction;

(B) to respond to terrorism or accidents involving such weapons and thefts of materials related to any weapon of mass destruction; and

(C) to assist in the interdiction and destruction of weapons of mass destruction, related weapons materials, and advanced conventional weapons.

(6) A description of—

(A) the extent to which the Secretary of Defense has incorporated nonproliferation and counterproliferation missions into the overall missions of the unified combatant commands; and

(B) how the special operations command established pursuant to section 167(a) of title 10, United States Code, might support the commanders of the other unified combatant commands and the commanders of the specified combatant commands in the performance of such overall missions.

(c) FORMS OF REPORT.—The report shall be submitted in both unclassified and classified forms, as appropriate.

**SEC. 1607. DEFINITIONS.**

For purposes of this subtitle:

(1) The term "appropriate congressional committees" means—

(A) the Committee on Armed Services, the Committee on Appropriations, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Armed Services, the Committee on Appropriations, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives.[27]

(2) The term "intelligence community" has the meaning given such term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

## Subtitle B—International Nonproliferation Activities

**SEC. 1611. NUCLEAR NONPROLIFERATION.**

(a) FINDINGS.—The Congress finds the following:

(1) The United States has been seeking to contain the spread of nuclear weapons technology and materials.

[27] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

(2) With the end of the Cold War and the breakup of the Soviet Union, the proliferation of nuclear weapons is now a leading military threat to the national security of the United States and its allies.

(3) The United Nations Security Council declared on January 31, 1992, that "proliferation of all weapons of mass destruction constitutes a threat to international peace and security" and committed to taking appropriate action to prevent proliferation from occurring.

(4) Aside from the five declared nuclear weapon states, a number of other nations have or are pursuing nuclear weapons capabilities.

(5) The IAEA is a valuable international institution to counter proliferation, but the effectiveness of its system to safeguard nuclear materials may be adversely affected by financial constraints.

(6) The Nuclear Non-Proliferation Treaty codifies world consensus against further nuclear proliferation and is scheduled for review and extension in 1995.

(7) The Nuclear Nonproliferation Act of 1978 declared that the United States is committed to continued strong support for the Nuclear Non-Proliferation Treaty and to a strengthened and more effective IAEA, and established that it is United States policy to establish more effective controls over the transfer of nuclear equipment, materials, and technology.

(b) COMPREHENSIVE NUCLEAR NONPROLIFERATION POLICY.—In order to end nuclear proliferation and reduce current nuclear arsenals and supplies of weapons-usable nuclear materials, it should be the policy of the United States to pursue a comprehensive policy to end the further spread of nuclear weapons capability, roll back nuclear proliferation where it has occurred, and prevent the use of nuclear weapons anywhere in the world, with the following additional objectives:

(1) Successful conclusion of all pending nuclear arms control and disarmament agreements with all the republics of the former Soviet Union and their secure implementation.

(2) Full participation by all the republics of the former Soviet Union in all multilateral nuclear nonproliferation efforts and acceptance of IAEA safeguards on all their nuclear facilities.

(3) Strengthening of United States and international support to the IAEA so that the IAEA has the technical, financial, and political resources to verify that countries are complying with their nonproliferation commitments.

(4) Strengthening of nuclear export controls in the United States and other nuclear supplier nations, impose sanctions on individuals, companies, and countries which contribute to nuclear proliferation, and provide increased public information on nuclear export licenses approved in the United States.

(5) Reduction in incentives for countries to pursue the acquisition of nuclear weapons by seeking to reduce regional tensions and to strengthen regional security agreements, and encourage the United Nations Security Council to increase its role in enforcing international nuclear nonproliferation agreements.

(6) Support for the indefinite extension of the Nuclear Non-Proliferation Treaty at the 1995 conference to review and extend that treaty and seek to ensure that all countries sign the treaty or participate in a comparable international regime for monitoring and safeguarding nuclear facilities and materials.

(7) Reaching agreement with the Russian Federation to end the production of new types of nuclear warheads.

(8) Pursuing, once the START I treaty and the START II treaty are ratified by all parties, a multilateral agreement to significantly reduce the strategic nuclear arsenals of the United States and the Russian Federation to below the levels of the START II treaty, with lower levels for the United Kingdom, France, and the People's Republic of China.

(9) Reaching immediate agreement with the Russian Federation to halt permanently the production of fissile material for weapons purposes, and working to achieve worldwide agreements to—

(A) end in the shortest possible time the production of weapons-usable fissile material;

(B) place existing stockpiles of such materials under bilateral or international controls; and

(C) require countries to place all of their nuclear facilities dedicated to peaceful purposes under IAEA safeguards.

(10) Strengthening IAEA safeguards to more effectively verify that countries are complying with their nonproliferation commitments and provide the IAEA with the political, technical, and financial support necessary to implement the necessary safeguard reforms.

(11) Conclusion of a multilateral comprehensive nuclear test ban treaty.

(c) REQUIREMENTS FOR IMPLEMENTATION OF POLICY.—(1) Not later than 180 days after the date of the enactment of this Act, the President shall submit to the Congress a report, in unclassified form, with a classified appendix if necessary, on the actions the United States has taken and the actions the United States plans to take during the succeeding 12-month period to implement each of the policy objectives set forth in this section.

(2) Not later than 180 days after the date of the enactment of this Act, the President shall submit to the Congress a report in unclassified form, with a classified appendix if necessary, which—

(A) addresses the implications of the adoption by the United States of a policy of no-first-use of nuclear weapons;

(B) addresses the implications of an agreement with the other nuclear weapons states to adopt such a policy; and

(C) addresses the implications of a verifiable bilateral agreement with the Russian Federation under which both countries withdraw from their arsenals and dismantle all tactical nuclear weapons, and seek to extend to all nuclear weapons states this zero option for tactical nuclear weapons.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "IAEA" means the International Atomic Energy Agency.

(2) The term "IAEA safeguards" means the safeguards set forth in an agreement between a country and the IAEA, as authorized by Article III(A)(5) of the Statute of the International Atomic Energy Agency.

(3) The term "non-nuclear weapon state" means any country that is not a nuclear weapon state.

(4) The term "Nuclear Non-Proliferation Treaty" means the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968.

(5) The term "nuclear weapon state" means any country that is a nuclear-weapon state, as defined by Article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968.

(6) The term "weapons-usable fissile materials" means highly enriched uranium and separated or reprocessed plutonium.

(7) The term "policy of no first use of nuclear weapons" means a commitment not to initiate the use of nuclear weapons.

(8) The term "START II treaty" means the Treaty on Further Reductions and Limitations of Strategic Offensive Arms, signed by the United States and the Russian Federation on January 3, 1993.

**SEC. 1612.[28] CONDITION ON ASSISTANCE TO RUSSIA FOR CONSTRUCTION OF PLUTONIUM STORAGE FACILITY.**

(a) LIMITATION.—Until a certification under subsection (b) is made, no funds may be obligated or expended by the United States for the purpose of assisting the Ministry of Atomic Energy of Russia to construct a storage facility for surplus plutonium from dismantled weapons.

(b)[29] CERTIFICATION OF RUSSIA'S COMMITMENT TO HALT CHEMICAL SEPARATION OF WEAPON-GRADE PLUTONIUM.—The prohibition in subsection (a) shall cease to apply upon a certification by the President to Congress that Russia—

(1) is committed to halting the chemical separation of weapon-grade plutonium from spent nuclear fuel; and

(2) is taking all practical steps to halt such separation at the earliest possible date.

(c) SENSE OF CONGRESS ON PLUTONIUM POLICY.—It is the sense of Congress that a key objective of the United States with respect to the nonproliferation of nuclear weapons should be to obtain a clear and unequivocal commitment from the Government of Russia that it will (1) cease all production and separation of weapon-grade plutonium, and (2) halt chemical separation of plutonium produced in civil nuclear power reactors.

(d) REPORT.—Not later than June 1, 1994, the President shall submit to Congress a report on the status of efforts by the United States to secure the commitments and achieve the objective described in subsections (b) and (c). The President shall include in the report a discussion of the status of joint efforts by the United States and Russia to replace any remaining Russian plutonium

[28] 22 U.S.C. 5952 note.

[29] The President delegated functions authorized under subsecs. (b) and (d) to the Secretary of State in a memorandum of March 10, 1994 (59 F.R. 14079; March 24, 1994).

production reactors with alternative power sources or to convert such reactors to operation with alternative fuels that would permit their operation without generating weapon-grade plutonium.

**SEC. 1613. NORTH KOREA AND THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS.**

(a) FINDINGS.—The Congress finds the following:

(1) The Treaty on the Non-Proliferation of Nuclear Weapons, to which 156 states are party, is the cornerstone of the international nuclear nonproliferation regime.

(2) Any nonnuclear weapon state that is a party to the Treaty on the Non-Proliferation of Nuclear Weapons is obligated to accept International Atomic Energy Agency safeguards on all source or special fissionable material that is within its territory, under its jurisdiction, or carried out under its control anywhere.

(3) The International Atomic Energy Agency is permitted to conduct inspections in a nonnuclear weapon state that is a party to the Treaty at any site, whether or not declared by that state, to ensure that all source or special fissionable material in that state is under safeguards.

(4) North Korea acceded to the Treaty on the Non-Proliferation of Nuclear Weapons as a nonnuclear weapons state in December 1985.

(5) North Korea, after acceding to that Treaty, refused until 1992 to accept International Atomic Energy Agency safeguards as required under the Treaty.

(6) Inspections of North Korea's nuclear materials by the International Atomic Energy Agency suggested discrepancies in North Korea's declarations regarding special nuclear materials.

(7) North Korea has not given a scientifically satisfactory explanation for those discrepancies.

(8) North Korea refused to provide International Atomic Energy Agency inspectors with full access to two sites for the purposes of verifying its compliance with the Treaty on the Non-Proliferation of Nuclear Weapons.

(9) When called upon by the International Atomic Energy Agency to provide such full access as required by the Treaty, North Korea announced its intention to withdraw from the Treaty, effective after the required three months notice.

(10) After intensive negotiations with the United States, North Korea agreed to suspend its intention to withdraw from the Treaty on the Non-Proliferation of Nuclear Weapons and begin consultations with the International Atomic Energy Agency on providing access to its suspect sites.

(11) In an attempt to persuade North Korea to abandon its nuclear weapons program, the United States has offered to discuss with North Korea specific incentives that could be provided for North Korea once (A) outstanding inspection issues between North Korea and the International Atomic Energy Agency are resolved, and (B) progress is made in bilateral talks between North Korea and South Korea.

(b) CONGRESSIONAL STATEMENTS.—The Congress—

(1) notes that the continued refusal of North Korea nearly eight years after ratification of the Treaty on the Non-Proliferation of Nuclear Weapons to fully accept International Atomic Energy Agency safeguards raises serious questions regarding a possible North Korean nuclear weapons program;

(2) notes that possession by North Korea of nuclear weapons (A) would threaten peace and stability in Asia, (B) would jeopardize the existing nuclear non-proliferation regime, and (C) would undermine the goal of the United States to extend the Treaty on the Non-Proliferation of Nuclear Weapons at the 1995 review conference;

(3) urges continued pressure from the President, United States allies, and the United Nations Security Council on North Korea to adhere to the Treaty and provide full access to the International Atomic Energy Agency in the shortest time possible;

(4) urges the President, United States allies, and the United Nations Security Council to press for continued talks between North Korea and South Korea on denuclearization of the Korean peninsula;

(5) urges that no trade, financial, or other economic benefits be provided to North Korea by the United States or United States allies until North Korea has (A) provided full access to the International Atomic Energy Agency, (B) satisfactorily explained any discrepancies in its declarations of bomb-grade material, and (C) fully demonstrated that it does not have or seek a nuclear weapons capability; and

(6) calls on the President and the international community to take steps to strengthen the international nuclear non-proliferation regime.

**SEC. 1614. SENSE OF CONGRESS RELATING TO THE PROLIFERATION OF SPACE LAUNCH VEHICLE TECHNOLOGIES.**

(a) FINDINGS.—The Congress finds the following:

(1) The United States has joined with other nations in the Missile Technology Control Regime (MTCR), which restricts the transfer of missiles or equipment or technology that could contribute to the design, development, or production of missiles capable of delivering weapons of mass destruction.

(2) Missile technology is indistinguishable from, and interchangeable with, space launch vehicle technology.

(3) Transfers of missile technology or space launch vehicle technology cannot be safeguarded in a manner that would provide timely warning of diversion for military purposes.

(4) It has been United States policy since agreeing to the guidelines of the Missile Technology Control Regime to treat the sale or transfer of space launch vehicle technology as restrictively as the sale or transfer of missile technology.

(5) Previous congressional action on missile proliferation, notably title XVII of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1738), has explicitly supported the policy described in paragraph (4) through such actions as the statutory definition of the term "missile" to mean "a category I system as defined in the MTCR Annex, and any other unmanned delivery system of similar capability, as

well as the specially designed production facilities for these systems".

(6) There is strong evidence that emerging national space launch programs in the Third World are not economically viable.

(7) The United States has been successful in dissuading other countries from pursuing space launch vehicle programs in part by offering to cooperate with those countries in other areas of space science and technology.

(8) The United States has successfully dissuaded other MTCR adherents, and countries who have agreed to abide by MTCR guidelines, from providing assistance to emerging national space launch programs in the Third World.

(b) STRICT INTERPRETATION OF MTCR.—The Congress supports the strict interpretation by the United States of the Missile Technology Control Regime concerning—

(1) the inability to distinguish space launch vehicle technology from missile technology under the regime; and

(2) the inability to safeguard space launch vehicle technology in a manner that would provide timely warning of the diversion of such technology to military purposes.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the United States Government and the governments of other nations adhering to the Missile Technology Control Regime should be recognized by the international community for—

(1) the success of those governments in restricting the export of space launch vehicle technology and of missile technology; and

(2) the significant contribution made by the imposition of such restrictions to reducing the proliferation of missile technology capable of being used to deliver weapons of mass destruction.

(d) DEFINITION.—For purposes of this section, the term "Missile Technology Control Regime" or "MTCR" means the policy statement, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto.

## q. National Defense Authorization Act for Fiscal Year 1993

**Partial text of Public Law 102–484 [H.R. 5006], 106 Stat. 2315, approved October 23, 1992; as amended by Public Law 103–160 [National Defense Authorization Act for Fiscal Year 1994; H.R. 2401], 107 Stat. 1547, approved November 30, 1993; Public Law 103–337 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994; Public Law 104–99 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996; H.R. 1868, enacted by reference in H.R. 2880], 110 Stat. 26, approved January 26, 1996, enacted again as Public Law 104–107 [H.R. 1868], 110 Stat. 755, approved February 12, 1996; Public Law 104–208 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997; enacted by incorporation into the Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, 3009–121, approved September 30, 1996; Public Law 106–113 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000; H.R. 3422, enacted by reference in the Consolidated Appropriations Act, 2000; H.R. 3194], 113 Stat. 1501, 1501A–63, approved November 29, 1999; and Public Law 107–115 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002; H.R. 2506], 115 Stat. 2118, approved January 10, 2002**

AN ACT To authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to provide for defense conversion, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1993".

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## DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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## TITLE XIII—MATTERS RELATING TO ALLIES AND OTHER NATIONS

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### Subtitle C—Matters Relating to the Former Soviet Union and Eastern Europe

**SEC. 1321.[1] NUCLEAR WEAPONS REDUCTION.**

(a) FINDINGS.—The Congress makes the following findings:

(1) On February 1, 1992, the President of the United States and the President of the Russian Federation agreed in a Joint Statement that "Russia and the United States do not regard

[1] 22 U.S.C. 5901 note.

each other as potential adversaries" and stated further that, "We will work to remove any remnants of cold war hostility, including taking steps to reduce our strategic arsenals".

(2) In the Treaty on the Non-Proliferation of Nuclear Weapons, in exchange for the non-nuclear-weapon states agreeing not to seek a nuclear weapons capability nor to assist other non-nuclear-weapon states in doing so, the United States agreed to seek the complete elimination of all nuclear weapons worldwide, as declared in the preamble to the Treaty, which states that it is a goal of the parties to the Treaty to "facilitate the cessation of the manufacture of nuclear weapons, the liquidation of all their existing stockpiles, and the elimination from national arsenals of nuclear weapons and the means of their delivery" as well as in Article VI of the Treaty, which states that "each of the parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to the cessation of the nuclear arms race at an early date and to nuclear disarmament".

(3) Carrying out a policy of seeking further significant and continuous reductions in the nuclear arsenals of all countries, besides reducing the likelihood of the proliferation of nuclear weapons and increasing the likelihood of a successful extension and possible strengthening of the Treaty on the Non-Proliferation of Nuclear Weapons in 1995, when the Treaty is scheduled for review and possible extension, has additional benefits to the national security of the United States, including—

(A) a reduced risk of accidental enablement and launch of a nuclear weapon, and

(B) a defense cost savings which could be reallocated for deficit reduction or other important national needs.

(4) The Strategic Arms Reduction Talks (START) Treaty and the agreement by the President of the United States and the President of the Russian Federation on June 17, 1992, to reduce the strategic nuclear arsenals of each country to a level between 3,000 and 3,500 weapons are commendable intermediate stages in the process of achieving the policy goals described in paragraphs (1) and (2).

(5) The current international era of cooperation provides greater opportunities for achieving worldwide reduction and control of nuclear weapons and material than any time since the emergence of nuclear weapons 50 years ago.

(6) It is in the security interests of both the United States and the world community for the President and the Congress to begin the process of reducing the number of nuclear weapons in every country through multilateral agreements and other appropriate means.

(7) In a 1991 study, a committee of the National Academy of Sciences concluded that: "The appropriate new levels of nuclear weapons cannot be specified at this time, but it seems reasonable to the committee that U.S. strategic forces could in time be reduced to 1,000–2,000 nuclear warheads, provided that such a multilateral agreement included appropriate levels and

verification measures for the other nations that possess nuclear weapons. This step would require successful implementation of our proposed post-START U.S.-Soviet reductions, related confidence-building measures in all the countries involved, and multilateral security cooperation in areas such as conventional force deployments and planning.".

(b) UNITED STATES POLICY.—It shall be the goal of the United States—

(1) to encourage and facilitate the denuclearization of Ukraine, Byelarus, and Kazakhstan, as agreed upon in the Lisbon ministerial meeting of May 23, 1992;

(2) to rapidly complete and submit for ratification by the United States the treaty incorporating the agreement of June 17, 1992, between the United States and the Russian Federation to reduce the number of strategic nuclear weapons in each country's arsenal to a level between 3,000 and 3,500;

(3) to facilitate the ability of the Russian Federation, Ukraine, Byelarus, and Kazakhstan to implement agreed mutual reductions under the START Treaty, and under the Joint Understanding of June 16–17, 1992 between the United States and the Russian Federation, on an accelerated timetable, so that all such reductions can be completed by the year 2000;

(4) to build on the agreement reached in the Joint Understanding of June 16–17, 1992, by entering into multilateral negotiations with the Russian Federation, the United Kingdom, France, and the People's Republic of China, and, at an appropriate point in that process, enter into negotiations with other nuclear armed states in order to reach subsequent stage-by-stage agreements to achieve further reductions in the number of nuclear weapons in all countries;

(5) to continue and extend cooperative discussions with the appropriate authorities of the former Soviet military on means to maintain and improve secure command and control over nuclear forces;

(6) in consultation with other member countries of the North Atlantic Treaty Organization and other allies, to initiate discussions to bring tactical nuclear weapons into the arms control process; and

(7) to ensure that the United States assistance to securely transport and store, and ultimately dismantle, former Soviet nuclear weapons and missiles for such weapons is being properly and effectively utilized.

(c) ANNUAL REPORT.—By February 1 of each year, the President shall submit to the Congress a report on—

(1) the actions that the United States has taken, and the actions the United States plans to take during the next 12 months, to achieve each of the goals set forth in paragraphs (1) through (6) of subsection (b); and

(2) the actions that have been taken by the Russian Federation, by other former Soviet republics, and by other countries to achieve those goals.

Each such report shall be submitted in unclassified form, with a classified appendix if necessary.

**SEC. 1322.[2] VOLUNTEERS INVESTING IN PEACE AND SECURITY (VIPS) PROGRAM.** * * *

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## Subtitle G—Other Matters

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**SEC. 1364. REPORT ON INTERNATIONAL MINE CLEARING EFFORTS IN REFUGEE SITUATIONS.**

(a) FINDINGS.—The Congress finds that—

(1) an estimated 10–20 million mines are scattered across Cambodia, Afghanistan, Somalia, Angola, and other countries which have experienced conflict; and

(2) refugee repatriation and other humanitarian programs are being seriously hampered by the widespread use of anti-personnel mines in regional conflicts and civil wars.

(b) REPORT.—(1) The President shall provide a report on international mine clearing efforts in situations involving the repatriation and resettlement of refugees and displaced persons.

(2) The report shall include the following:

(A) An assessment of mine clearing needs in countries to which refugees and displaced persons are now returning, or are likely to return within the near future, including Cambodia, Angola, Afghanistan, Somalia and Mozambique, and an assessment of current international efforts to meet the mine clearing needs in the countries covered by the report.

(B) An analysis of the specific types of mines in the individual countries assessed and the availability of technology and assets within the international community for their removal.

(C) An assessment of what additional technologies and assets would be required to complete, expedite or reduce the costs of mine clearing efforts.

(D) An evaluation of the availability of technologies and assets within the United States Government which, if called upon, could be employed to augment or complete mine clearing efforts in the countries covered by the report.

(E) An evaluation of the desirability, feasibility and potential cost of United States assistance on either a unilateral or multilateral basis in such mine clearing operations.

(3) The report shall be submitted to the Congress not later than 180 days after the date of the enactment of this Act.

**SEC. 1365.[3] LANDMINE EXPORT MORATORIUM.**

(a) FINDINGS.—The Congress makes the following findings:

(1) Anti-personnel landmines, which are specifically designed to maim and kill people, have been used indiscriminately in dramatically increasing numbers, primarily in insurgencies in poor developing countries. Noncombatant civilians, including tens of thousands of children, have been the primary victims.

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[2] For amendment to 10 U.S.C. 1801–1805, see *Legislation on Foreign Relations Through 2008*, vol. I–B. Freestanding subsections of sec. 1322 may also be found in that volume.

[3] 22 U.S.C. 2778 note.

(2) Unlike other military weapons, landmines often remain implanted and undiscovered after conflict has ended, causing untold suffering to civilian populations. In Afghanistan, Cambodia, Laos, Vietnam, and Angola, tens of millions of unexploded landmines have rendered whole areas uninhabitable. In Afghanistan, an estimated hundreds of thousands of people have been maimed and killed by landmines during the 14-year civil war. In Cambodia, more than 20,000 civilians have lost limbs and another 60 are being maimed each month from landmines.

(3) Over 35 countries are known to manufacture landmines, including the United States. However, the United States is not a major exporter of landmines. During the past ten years the Department of State has approved ten licenses for the commercial export of anti-personnel landmines valued at $980,000, and during the past five years the Department of Defense has approved the sale of 13,156 anti-personnel landmines valued at $841,145.

(4) The United States signed, but has not ratified, the 1981 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed To Be Excessively Injurious or To Have Indiscriminate Effects. The Convention prohibits the indiscriminate use of landmines.

(5) When it signed the Convention, the United States stated: "We believe that the Convention represents a positive step forward in efforts to minimize injury or damage to the civilian population in time of armed conflict. Our signature of the Convention reflects the general willingness of the United States to adopt practical and reasonable provisions concerning the conduct of military operations, for the purpose of protecting noncombatants.".

(6) The President should submit the Convention to the Senate for its advice and consent to ratification, and the President should actively negotiate under United Nations auspices or other auspices an international agreement, or a modification of the Convention, to prohibit the sale, transfer or export of anti-personnel landmines. Such an agreement or modification would be an appropriate response to the end of the Cold War and the promotion of arms control agreements to reduce the indiscriminate killing and maiming of civilians.

(7) The United States should set an example for other countries in such negotiations, by implementing a one-year moratorium on the sale, transfer or export of anti-personnel landmines.

(b) STATEMENT OF POLICY.—(1) It shall be the policy of the United States to seek verifiable international agreements prohibiting the sale, transfer, or export, and further limiting the use, production, possession, and deployment of anti-personnel landmines.

(2) It is the sense of the Congress that the President should actively seek to negotiate under United Nations auspices or other auspices an international agreement, or a modification of the Convention, to prohibit the sale, transfer, or export of anti-personnel landmines.

(c) MORATORIUM ON TRANSFERS OF ANTI-PERSONNEL LANDMINES ABROAD.—During the 16-year period beginning on October 23, 1992[4]—

(1) no sale may be made or financed, no transfer may be made, and no license for export may be issued, under the Arms Export Control Act, with respect to any anti-personnel landmine; and

(2) no assistance may be provided under the Foreign Assistance Act of 1961, with respect to the provision of any anti-personnel landmine.

(d)[5] DEFINITION.—For purposes of this section, the term "anti-personnel landmine" means—

(1) any munition placed under, on, or near the ground or other surface area, or delivered by artillery, rocket, mortar, or similar means or dropped from an aircraft and which is designed to be detonated or exploded by the presence, proximity, or contact of a person;

(2) any device or material which is designed, constructed, or adapted to kill or injure and which functions unexpectedly when a person disturbs or approaches an apparently harmless object or performs an apparently safe act;

(3) any manually-emplaced munition or device designed to kill, injure, or damage and which is actuated by remote control or automatically after a lapse of time.

## TITLE XIV—DEMILITARIZATION OF THE FORMER SOVIET UNION[6]

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## TITLE XV—NONPROLIFERATION[7]

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[4] Sec. 1423(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1832) struck out "For a period of one year beginning on the date of the enactment of this Act", and inserted in lieu thereof "During the four-year period beginning on October 23, 1992". Sec. 558 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 743) later struck out "During the four-year period beginning on October 23, 1992" and inserted in lieu thereof "During the five-year period beginning on October 23, 1992". Next, sec. 556 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (enacted by incorporation into the Omnibus Consolidated Appropriations Act, 1997; Public Law 104–208; 110 Stat. 3009, 3009–161) struck out "During the five-year period beginning on October 23, 1992" and inserted in lieu thereof "During the eight-year period beginning on October 23, 1992". Subsequently sec. 553 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by sec. 1000(a)(2) of Public Law 106–113; 113 Stat. 1535, 1501A–99) struck out "During the five-year period beginning on October 23, 1992" (despite the previous amendment to an "eight-year period" in sec. 556 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997) and inserted in lieu thereof "During the 11-year period beginning on October 23, 1992".

Most recently, sec. 548 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2156) struck out "During the 11-year period beginning on October 23, 1992" and inserted in lieu thereof "During the 16-year period beginning on October 23, 1992".

[5] Sec. 1182(c)(3) of Public Law 103–160 (107 Stat. 1772) struck out "(e) DEFINITION.—" and inserted in lieu thereof "(d) DEFINITION.—".

[6] For text of this title, the "Former Soviet Union Demilitarization Act of 1992", see page 159 of this volume.

[7] For text of this title, the "Weapons of Mass Destruction Control Act of 1992", see page 335 of this volume.

## TITLE XVI—IRAN-IRAQ ARMS NON-PROLIFERATION ACT OF 1992[8]

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## DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

## TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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### Subtitle D—International Fissile Material and Warhead Control

**SEC. 3151. NEGOTIATIONS.**

(a) IN GENERAL.—The Congress urges the President to enter into negotiations with member states of the Commonwealth of Independent States, to complement ongoing and future arms reduction negotiations and agreements, with the goal of achieving verifiable agreements in the following areas:

(1) Dismantlement of nuclear weapons.

(2) The safeguard and permanent disposal of nuclear materials.

(3) An end by the United States and member states of the Commonwealth of Independent States to the production of plutonium and highly enriched uranium for nuclear weapons.

(4) The extension of negotiations on these issues to all nations capable of producing nuclear weapons materials.

(b) EXCHANGES OF INFORMATION.—The Congress urges the President, in order to establish a data base on production capabilities of member states of the Commonwealth of Independent States and their stockpiles of fissile materials and nuclear weapons, to seek to achieve agreements with such states to reciprocally release information on—

(1) United States and the member states nuclear weapons stockpiles, including the number of warheads and bombs by type, and schedules for weapons production and dismantlement;

(2) the location, mission, and maximum annual production capacity of United States and member states facilities that are essential to the production of tritium for replenishment of that nation's tritium stockpile;

(3) the inventory of United States and member states facilities dedicated to the production of plutonium and highly enriched uranium for weapons purposes; and

(4) United States and members states stockpiles of plutonium and highly enriched uranium used for nuclear weapons.

(c) TECHNICAL WORKING GROUPS.—The Congress urges the President, in order to facilitate the achievement of agreements referred

[8] For text of this title, the "Iran-Iraq Arms Non-Proliferation Act of 1992", see page 342 of this volume.

to in subsection (a), to establish with member states of the Commonwealth of Independent States and with other nations capable of producing nuclear weapons material bilateral or multilateral technical working groups to examine and demonstrate cooperative technical monitoring and inspection arrangements that could be applied to the verification of—

(1) information on mission, location, and maximum annual production capacity of nuclear material production facilities and the size of stockpiles of plutonium and highly enriched uranium;

(2) nuclear arms reduction agreements that would include provisions requiring the verifiable dismantlement of nuclear warheads; and

(3) bilateral or multilateral agreements to halt the production of plutonium and highly enriched uranium for nuclear weapons.

(d) REPORT.—The President shall submit to the Congress, not later than March 31, 1993, a report on the progress made by the President in implementing the actions called for in subsections (a) through (c).

(e) PRODUCTION BY COMMONWEALTH OF INDEPENDENT STATES.—The Congress urges the Presidents of the member states of the Commonwealth of Independent States—

(1) to institute a moratorium on production of plutonium and highly enriched uranium for nuclear weapons; and

(2) to pledge to continue such moratorium for so long as the United States does not produce such materials.

**SEC. 3152. AUTHORITY TO RELEASE CERTAIN RESTRICTED DATA.**

Section 142 of the Atomic Energy Act of 1954 (42 U.S.C. 2162) is amended * * *

**SEC. 3153. DEVELOPMENT AND DEMONSTRATION PROGRAM.**

(a) PROGRAM.—Of funds authorized to be appropriated in section 3104 for fiscal year 1993 for verification and control activities, $10,000,000 shall be available only to carry out a program—

(1) to develop and demonstrate a means for verifiable dismantlement of nuclear warheads;

(2) to safeguard and dispose of nuclear materials; and

(3) to develop reliable techniques and procedures for verifying a global ban on the production of fissile materials for weapons purposes.

(b) REPORT.—The Secretary shall include a report on such program in budget justification documents submitted to Congress in support of the budget of the Department of Energy for fiscal year 1994. The report shall be submitted in both classified and unclassified form.

**SEC. 3154. PRODUCTION OF TRITIUM.**

Nothing in this part may be construed as intending to affect the production of tritium.

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## r. National Defense Authorization Act for Fiscal Years 1992 and 1993

**Partial text of Public Law 102–190 [H.R. 2100], 105 Stat. 1290, approved December 5, 1991**

AN ACT To authorize appropriations for fiscal years 1992 and 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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## DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

## TITLE I—PROCUREMENT

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### PART F—OTHER MATTERS

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**SEC. 153. LIMITATIONS RELATING TO REDEPLOYMENT OF MINUTEMAN III ICBMS.**

(a) PROHIBITION REGARDING OPERATIONALLY DEPLOYED MISSILES.—Funds appropriated for fiscal year 1992 or any fiscal year preceding fiscal year 1992 pursuant to an authorization contained in this or any other Act may not be obligated or expended for the redeployment or transfer of operationally deployed Minuteman III intercontinental ballistic missiles from one Air Force ICBM base to another Air Force ICBM base.

(b) LIMITATION REGARDING STORED MISSILES.—No Minuteman III missile in storage may be transferred to a Minuteman II silo until the Secretary of Defense submits to Congress a plan for the restructuring of the United States strategic forces consistent with the strategic arms reduction talks (START) treaty signed by the United States and the Soviet Union. Such plan shall include—

(1) a discussion of the force structure options that were considered in developing the plan;

(2) for each option, the locations for the Minuteman III ICBMs and Small ICBMs and the number of each such type of missile for each location;

(3) the cost of each such option; and

(4) the reasons for selecting the force structure provided for in the plan.

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# DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

## TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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### PART C—MISCELLANEOUS

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**SEC. 3140. REPORT ON SCHEDULE FOR RESUMPTION OF NUCLEAR TESTING TALKS AND TEST BAN READINESS PROGRAM.**

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States and the Soviet Union share a special responsibility to resume the Nuclear Testing Talks to continue negotiations toward additional limitations on nuclear weapons testing.

(b) REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall submit to Congress a report containing a proposed schedule for resumption of the Nuclear Testing Talks and identifying the goals to be pursued in those talks.

(c) NUCLEAR TEST BAN READINESS PROGRAM.—Of the funds appropriated to the Department of Energy for fiscal year 1992 for weapons activities, $20,000,000 shall be available to conduct the nuclear test ban readiness program established pursuant to section 1436 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 42 U.S.C. 2121 note).

**SEC. 3141. WARHEAD DISMANTLEMENT AND MATERIAL DISPOSAL.**

(a) FINDINGS.—The Congress makes the following findings:

(1) On September 27, 1991, the President announced as part of a unilateral initiative designed to "enhance stability and reduce the risk of nuclear war," that the United States should explore with the Soviet Union "joint technical cooperation on the safe and environmentally responsible storage, transportation, dismantling, and destruction of nuclear weapons".

(2) On October 5, 1991, the President of the Soviet Union stated in response that "We hereby stress readiness to embark on a specific dialogue with the United States on the elaboration of safe and ecologically responsible technologies for the storage and transportation of nuclear warheads and nuclear charges, and to design jointly measures to enhance nuclear safety".

(3) The President's initiative and the Soviet response hold out the prospect of enhancing stability and reducing the risk of nuclear war.

(b) CONGRESSIONAL ENDORSEMENT.—Congress strongly endorses the initiative proposed by the President and the Soviet response and looks forward—

(1) to hearing the proposed initiatives of the President during the congressional review of the President's proposed budget for fiscal year 1993; and

(2) to helping facilitate such initiatives through appropriate legislative measures which are requested by the President.

(c) WARHEAD DISMANTLEMENT.—Of the funds appropriated to the Department of Energy for fiscal year 1992 for weapons activities, $10,000,000 shall be available to conduct a program to develop and demonstrate a means for verifiable dismantlement of nuclear warheads.

**SEC. 3142. REPORT ON NUCLEAR WEAPONS MATTERS.**

(a) REPORT.—Not later than April 1, 1992, the President shall submit to the congressional defense committees a report containing the following:

(1) Information on the national security requirements of each of the following items, for the period beginning on September 30, 1991, and ending on September 30, 2001:

(A) The planned stockpile of nuclear weapons.

(B) The amount of tritium necessary to maintain the planned stockpile, including—

(i) the amount of tritium available from inventory;

(ii) the amount of tritium that must be produced and when; and

(iii) an assessment of the need for and duration of operation of the K-reactor, located at the Savannah River Site in South Carolina.

(C) The feasibility and desirability of use of W–76 warheads in place of W–88 warheads in the Trident II missiles carried by Trident Fleet Ballistic Missile submarines.

(D) The need for and duration of operation of the Rocky Flats Plant facilities (other than Building 559) located at Golden, Colorado, for the purposes of—

(i) production of W–88 warheads; and

(ii) plutonium operations other than warhead production.

(E) The earliest practicable date for the commencement of operation of facilities that replace the K-reactor and the Rocky Flats Plant, including an assessment of the effect of a delay (beyond the second quarter of fiscal year 1992) in the selection of the site and the technology for the new production reactor.

(2) A plan for assistance to the workforce at Rocky Flats and the K-reactor, including retraining for new employment opportunities at the sites, that could be provided in the event that either facility ceases production.

(b) FORM OF REPORT.—The report required by subsection (a) shall be submitted in classified and unclassified form.

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## s. National Defense Authorization Act for Fiscal Year 1991

**Partial text of Public Law 101–510 [H.R. 4739], 104 Stat. 1485 at 1689, approved November 5, 1990; as amended by Public Law 102–190 [National Defense Authorization Act for Fiscal Years 1992 and 1993; H.R. 2100], 105 Stat. 1290, approved December 5, 1991**

AN ACT To authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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## TITLE XIV—GENERAL PROVISIONS

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### PART D—ARMS CONTROL MATTERS

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**SEC. 1441. SENSE OF CONGRESS ON ADDITIONAL NUCLEAR RISK REDUCTION MEASURES**

(a) FINDINGS.—Congress makes the following findings:

(1) On June 1, 1990, the President of the United States and the President of the Soviet Union signed a document entitled "Joint Statement on Future Negotiations on Nuclear and Space Arms and Further Enhancing Strategic Stability".

(2) In that document, the two nations pledged to pursue additional confidence-building and predictability measures "that would reduce the possibility of an outbreak of nuclear war as a result of accident, miscalculation, terrorism, or unexpected technological breakthrough, and would prevent possible incidents between them".

(3) As a result of the recent increase in ethnic, national, economic, and political tensions within the Soviet Union, concern has heightened regarding the possible unauthorized or accidental use of Soviet nuclear weapons.

(4) It has been four years since the Department of Defense conducted a comprehensive review of its nuclear control procedures and failsafe mechanisms.

(5) The Joint Chiefs of Staff, in its 1990 Joint Military Net Assessment, concluded that with the recent changes in the global security environment "the risk of nuclear deterrence failing is assessed to be low and at this moment to be decreasing".

(6) While Congress is concerned about continued strategic offensive and defensive modernization by the Soviet Union and the unpredictable status of the domestic situation in the Soviet

Union, at this stage the lessened prospects that nuclear weapons of the United States might have to be employed may afford an opportunity to reconsider past reluctance to use certain positive control measures, such as the installation of permissive action links (PALs) on nuclear weapons deployed at sea by the United States and the installation of post-launch destruct mechanisms on intercontinental ballistic missiles (ICBMs) and submarine launched ballistic missiles (SLBMs) deployed by the United States, as long as appropriate security measures can be developed to protect the integrity of such destruct mechanisms.

(7) On September 15, 1987, the United States and the Soviet Union agreed to establish Nuclear Risk Reduction Centers (NRRCs) in Washington and Moscow.

(8) The NRRCs have made a useful contribution to lowering the risks of accidental or inadvertent nuclear war and are capable of taking on expanded roles.

(b) SENSE OF CONGRESS.—It is the sense of Congress—

(1) that the President of the United States and the President of the Union of Soviet Socialist Republics are to be commended for their June 1, 1990, joint statement to pursue additional nuclear confidence-building measures; and

(2) that, in keeping with that joint statement, the President—

(A) should invite the Soviet Union to join with the United States in conducting separate but parallel, comprehensive reviews of each nation's own nuclear control procedures and failsafe mechanisms; and

(B) should propose to the Soviet Union that representatives of the two nations engage in discussions with the objective of agreeing on additional roles and functions that could be assigned to the Nuclear Risk Reduction Centers to further lessen the risks of the outbreak of nuclear war as the result of misinterpretation, miscalculation, or accident.

(c) REPORT ON ADDITIONAL MEASURES.—Not later than March 1, 1991, the President shall submit to Congress a report (in both classified and unclassified form) assessing additional nuclear risk reduction measures which could be implemented pursuant to the joint statement of June 1, 1990, referred to in subsection (b), including the following:

(1) Assigning to the Nuclear Risk Reduction Centers (NRRCs) such expanded roles as the following:

(A) Serving as a forum for discussions between the two nations on responding to possible nuclear terrorism.

(B) Transmitting notifications that may be required under future arms control treaties.

(C) Transmitting non-urgent notifications and information requests required under Article 5 of the 1971 Agreement on Measures to Reduce the Risk of Outbreak of Nuclear War Between the United States and the Union of Soviet Socialist Republics.

(D) Providing a forum for discussions between the United States and the Soviet Union on restricting nuclear, chemical, and missile proliferation.

(E) Serving as a meeting place for high-level military discussions on nuclear doctrines, forces and activities, and regional security concerns.

(2) Installation of post-launch destruct mechanisms on all intercontinental ballistic missiles (ICBMs) and submarine launched ballistic missiles (SLBMs) deployed by the United States.

(3) Installation by the United States of permissive action links (PALs) on all nuclear weapons at sea.

**SEC. 1442. START AND STRATEGIC MODERNIZATION**

(a) FINDINGS.—The Congress makes the following findings:

(1) The United States and the Soviet Union are engaged in the Strategic Arms Reduction Talks (START) in Geneva.

(2) In the Joint Statement on the Treaty on Strategic Offensive Arms signed in June 1990, the two sides reaffirmed their determination to have a START agreement completed and ready for signature by the end of 1990.

(3) Under the provisions of a START agreement, both sides will carry out significant reductions in strategic offensive arms.

(4) In the Joint Statement on Future Negotiations on Nuclear and Space Arms and Further Enhancing Strategic Stability, the United States and the Soviet Union agreed to pursue new talks on strategic offensive arms, and on the relationship between strategic offensive and defensive arms.

(5) The objectives of these negotiations will be to reduce further the risk of outbreak of war, particularly nuclear war, and to ensure strategic stability, transparency and predictability through further stabilizing reductions in the strategic arsenals of both countries.

(6) The President's effort to negotiate such agreements is dependent upon the maintenance of a vigorous research and development and modernization program as required for a prudent defense posture.

(7) The Soviet Union has maintained a robust strategic modernization program throughout the course of the START negotiations which continues today.

(b) It is the sense of the Congress that—

(1) the Congress fully supports United States efforts to enhance strategic stability; and

(2) the United States should pursue stabilizing strategic arms reduction agreements while maintaining a vigorous research and development and modernization program for United States strategic forces as required for a prudent defense posture.

**SEC. 1443. STRATEGIC ARMS REDUCTION TALKS AGREEMENT**

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the President, before concluding an agreement in the Strategic Arms Reduction Talks, should provide to Congress—

(1) a report on whether the SS–23 INF missiles of Soviet manufacture, which the Soviet Union has confirmed have been stationed in the territory of the former German Democratic Republic and in the territories of Czechoslovakia and Bulgaria, constitute a violation of the INF Treaty or constitute deception

in the INF negotiations, and whether the United States has reliable assurances that those missiles will be destroyed; and

(2) a report on whether the Krasnoyarsk radar, which the Foreign Minister of the Soviet Union admitted is a clear violation of the 1972 ABM Treaty, has been verifiably dismantled in accordance with United States criteria.

(b) FORM OF REPORTS.—The reports under paragraphs (1) and (2) of subsection (a) should be submitted in both classified and unclassified form.

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## TITLE XVII—MISSILE TECHNOLOGY CONTROLS

Sec. 1701. Policy.
Sec. 1702. Amendment to the Export Administration Act of 1979.
Sec. 1703. Amendment to the Arms Export Control Act of 1979.
Sec. 1704. Report on missile proliferation.[1]

**SEC. 1701.[2] POLICY**

It should be the policy of the United States to take all appropriate measures—

(1) to discourage the proliferation, development, and production of the weapons, material, and technology necessary to produce or acquire missiles that can deliver weapons of mass destruction;

(2) to discourage countries and private persons in other countries from aiding and abetting any states from acquiring such weapons, material, and technology;

(3) to strengthen United States and existing multilateral export controls to prohibit the flow of materials, equipment, and technology that would assist countries in acquiring the ability to produce or acquire missiles that can deliver weapons of mass destruction, including missiles, warheads and weaponization technology, targeting technology, test and evaluation technology, and range and weapons effect measurement technology; and

(4) with respect to the Missile Technology Control Regime ("MTCR") and its participating governments—

(A) to improve enforcement and seek a common and stricter interpretation among MTCR members of MTCR principles;

(B) to increase the number of countries that adhere to the MTCR; and

(C) to increase information sharing among United States agencies and among governments on missile technology transfer, including export licensing, and enforcement activities.

[1] Sec. 1097(g) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1489) repealed sec. 1704, and sec. 1097 of that Act itself superseded the former sec. 1704.

[2] 50 U.S.C. App. 2402 note.

**SEC. 1702.**[3] **AMENDMENT TO THE EXPORT ADMINISTRATION ACT OF 1979** * * *

**SEC. 1703.**[4] **AMENDMENT TO THE ARMS EXPORT CONTROL ACT** * * *

**SEC. 1704.**[1] * * * [Repealed—1991]

[3] For text of amendment to sec. 6 and the addition of new sec. 11B of the Export Administration Act of 1979, see *Legislation on Foreign Relations Through 2008*, vol. III, sec. J.

[4] Sec. 1703 added chapter 7, secs. 71 through 74 to the Arms Export Control Act. For text, see *Legislation on Foreign Relations Through 2008*, vol. I–A.

## t. National Defense Authorization Act for Fiscal Years 1990 and 1991

**Partial text of Public Law 101–189 [H.R. 2461], 103 Stat. 1352 at 1539, approved November 29, 1989**

AN ACT To authorize appropriations for fiscal years 1990 and 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

* * * * * * *

## TITLE X—MATTERS RELATING TO ARMS CONTROL

### SEC. 1001. PRESIDENTIAL REPORT ON POSSIBLE EFFECTS OF A STRATEGIC ARMS REDUCTION AGREEMENT ON TRIDENT PROGRAM

(a) REPORT.—Not later than April 1, 1990, the President shall submit to Congress a comprehensive report on the Trident program under a possible Strategic Arms Reduction Talks (START) agreement. The report shall address the following issues:

(1) The objective for the size of the Trident submarine force fleet both with and without a START agreement.

(2) The implications for United States strategic force posture under a START agreement of a fleet of 21 or more Trident submarines, each with 192 warheads on 24 ballistic missiles, under two different assumptions, as follows:

(A) All such warheads are accountable under START limits.

(B) The warheads on one-to-three Trident submarines are not accountable under START limits.

(3) A net assessment of the implications for United States security of a START agreement that allows the Soviet Union as well as the United States to have an equivalent number of warheads on submarines that are not accountable under START limits.

(4) The technical feasibility and cost implications of various options for reducing the number of warheads on Trident submarines, including those submarines already built, those under construction, and those yet to be built.

(5) The verification challenges to the United States posed by such options if the Soviet Union were to adopt them in its ballistic missile submarine forces.

(b) FORM OF REPORT.—The President shall submit the report under subsection (a) in both classified and unclassified versions.

(c) WAIVER.—The President may waive the requirements of subsection (a) if he has signed a START agreement or other strategic

arms reduction agreement with the Soviet Union before the date by which the report is otherwise required to be submitted.

**SEC. 1002. PRESIDENTIAL REPORT ON THE VERIFICATION WORK THAT HAS BEEN CONDUCTED WITH REGARD TO MOBILE ICBMs UNDER A START AGREEMENT**

(a) FINDINGS.—Congress makes the following findings:

(1) The United States must have confidence that any agreement achieved through the Strategic Arms Limitation Talks (START) in Geneva will be effectively verifiable.

(2) The position of the United States at the START negotiations, from 1985 until September 1989, was to ban the deployment of mobile intercontinental ballistic missiles (ICBMs) under a START regime unless an effective verification regime could be identified and implemented. In September 1989, the United States announced that it was withdrawing its proposal for the ban of mobile ICBMs, contingent upon Congress providing funds for mobile ICBMs to be deployed by the United States.

(3) The Soviet Union has deployed two mobile ICBM systems, the SS–24 and the SS–25.

(4) The President conducted a strategic review during the period between January 20, 1989, and the resumption of the START negotiations on June 15, 1989.

(b) PRESIDENTIAL REPORT.—Not later than March 31, 1990, the President shall submit to Congress a report (in classified and unclassified form) describing all studies that have been performed between March 1985 and August 1989 by agencies of the United States Government with regard to the capability of the United States to monitor and verify a START agreement which allows mobile ICBMs. The report shall include the following:

(1) A description of each study conducted by United States Government agencies during the strategic review referred to in subsection (a)(4) to determine the ability of the United States to verify limitations on mobile ICBMs of the Soviet Union under a START agreement, including a summary of the conclusions reached under each such study.

(2) A description of any so-called "Red Team" study conducted between March 1985 and August 1989 with regard to the existence of mobile ICBMs under a START regime, including a summary of the conclusions reached under each such study.

(3) A description of each study conducted by United States Government agencies between March 1989 and August 1989 to assess the value of various options relating to the verification of mobile ICBMs (such options to include the option known as "tagging" and the establishment of designated deployment areas), including a summary of the conclusions reached under each such study.

**SEC. 1003. SENSE OF CONGRESS ON START TALKS**

Congress hereby reaffirms the sense of Congress expressed in the second session of the 100th Congress (in section 902 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law

100–456; 102 Stat. 2031))[1] that any agreement negotiated by the President to achieve a reduction and limitation on strategic arms (through the Strategic Arms Reduction Talks in Geneva or otherwise)—

(1) should not prevent the United States from deploying a force structure under the agreement which emphasizes survivable strategic systems and, in particular, should not in any way compromise the security of the United States ballistic-missile carrying submarine force; and

(2) should not prohibit or limit the deployment of non-nuclear cruise missiles.

**SEC. 1004. REPORT ON ASYMMETRIES IN CAPABILITIES OF UNITED STATES AND SOVIET UNION TO PRODUCE AND DEPLOY BALLISTIC MISSILE DEFENSE SYSTEMS**

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study on the asymmetry in the near-term capabilities of the United States and the Soviet Union to deploy ballistic missile defenses beyond those permitted under the 1972 ABM Treaty. The study shall be conducted in coordination with the Director of Central Intelligence.

(b) MATTERS TO BE INCLUDED IN STUDY.—Subject to subsection (e), the study shall include the following:

(1) An assessment of the likelihood of a breakout by the Soviet Union from the 1972 ABM Treaty in the next five years and the assumptions used for that assessment.

(2) An assessment of the capability of the Soviet Union to exploit a situation in which the limitations of the 1972 ABM Treaty do not apply, including a detailed assessment of the capabilities of the Soviet Union to produce—

(A) space-based anti-ballistic missile (ABM) launchers and interceptors;

(B) ground-based ABM launchers and interceptors; and

(C) the infrastructure for ABM battle management command, control, and communications.

(3) An assessment of the production base of the United States for production of the elements specified in subparagraphs (A), (B), and (C) of paragraph (2), including an estimate of how quickly the United States could respond to a breakout by the Soviet Union in each of those elements.

(c) STUDY TO ASSESS POSSIBLE UNITED STATES RESPONSE TO SOVIET BREAKOUT.—(1) The study shall also include an assessment of the immediate and long-term actions that could be taken by the United States to respond to redress any asymmetry in the potential of the United States and the Soviet Union to exploit a breakout by the Soviet Union from the 1972 ABM Treaty.

(2) That assessment shall include an evaluation of the actions that would be necessary to support—

(A) a one-site ABM system (as allowed under the Treaty); or

(B) an expanded ABM system unconstrained by the limitations of the 1972 ABM Treaty.

[1] Sec. 902 of Public Law 100–456 stated a sense of the Congress on START talks identical to paras. (1) and (2).

(3) Such assessment shall specifically address the required actions, and the costs associated with those actions, to support both the one-site ABM system and the expanded ABM system to be evaluated under paragraph (2), including (A) the upgrading and expansion of the existing United States radar network, (B) the use of existing inactive ABM components at Grand Forks, North Dakota, and (C) the development and deployment of other required components.

(d) REPORT.—Not later than the date on which the budget for fiscal year 1991 is submitted to Congress pursuant to section 1105 of title 31, United States Code, the Secretary of Defense shall submit to Congress a report on the study under subsection (a). The report shall be submitted in both classified and unclassified form. The report shall specify the results of the study under subsection (a), including each matter required to be included in the study under this section.

(e) WAIVER OF REQUIRED STUDY FEATURE.—The study under subsection (a) need not include the assessment referred to in subsection (b)(1) if, before the date of the submission of the report required by subsection (d) with respect to the study, the President submits to Congress the report required by section 907 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2034), regarding antiballistic missile capabilities and activities of the Soviet Union (such report having been required by subsection (c) of such section to be submitted not later than January 1, 1989).

(f) 1972 ABM TREATY DEFINED.—For purposes of this section, the term "1972 ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitations of Anti-Ballistic Missiles, signed at Moscow on May 26, 1972.

**SEC. 1005. SENSE OF THE CONGRESS WITH RESPECT TO ACCIDENTAL LAUNCH PROTECTION**

(a) FINDINGS.—Congress makes the following findings:

(1) The Strategic Defense Initiative (SDI) has made substantial progress in developing technologies to defend the United States from a possible ballistic missile attack, be it deliberate or accidental.

(2) Ground-based elements and their associated adjuncts and technologies represent the most mature technologies within the SDI program and should therefore receive priority by the Strategic Defense Initiative Organization.

(3) The United States is a signatory to the 1972 Anti-Ballistic Missile Treaty.

(4) There have been several accidents involving ballistic missiles, including the loss of a submarine of the Soviet Union due to inadvertent missile ignition and the inadvertent landing in China of a test missile of the Soviet Union.

(5) The continued proliferation of offensive ballistic missile forces by non-superpower countries hostile to the United States and our allies raises the possibility of future nuclear threats.

(b) REAFFIRMATION OF SENSE OF CONGRESS.—Congress hereby reaffirms the sense of Congress expressed in section 224(b) of the

National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 1942)[2] stating—

(1) that the Secretary of Defense should direct the Strategic Defense Initiative Organization to give priority to development of technologies and systems for a system capable of protecting the United States from the accidental launch of a strategic ballistic missile against the continental United States; and

(2) that such development of an accidental launch protection system should be carried out with an objective of ensuring that such system is in compliance with the 1972 Anti-Ballistic Missile Treaty.

(c) SUBMISSION OF PREVIOUSLY REQUIRED REPORT.—The Secretary of Defense shall submit to Congress forthwith the report on the status of planning for development of a deployment option for such an accidental launch protection system that was required by section 224(c) of that Act to be submitted not later than March 1, 1989.

**SEC. 1006. CONGRESSIONAL FINDINGS AND SENSE OF CONGRESS CONCERNING THE KRASNOYARSK RADAR**

(a) REAFFIRMATION OF PRIOR FINDINGS.—Congress hereby reaffirms the findings made with respect to the large phased-array radar of the Soviet Union known as the "Krasnoyarsk radar" in paragraphs (1) through (6) of section 902(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 101 Stat. 1135), as follows:

(1) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying ballistic missile early warning radars except at locations along the periphery of its national territory and oriented outward.

(2) The 1972 Anti-Ballistic Missile Treaty prohibits each party from deploying an ABM system to defend its national territory and from providing a base for any such nationwide defense.

(3) Large phased-array radars were recognized during negotiation of the Anti-Ballistic Missile Treaty as the critical long lead-time element of a nationwide defense against ballistic missiles.

(4) In 1983 the United States discovered the construction, in the interior of the Soviet Union near the town of Krasnoyarsk, of a large phased-array radar that has subsequently been judged to be for ballistic early warning and tracking.

(5) The Krasnoyarsk radar is more than 700 kilometers from the Soviet-Mongolian border and is not directed outward but instead faces the northeast Soviet border more than 4,500 kilometers away.

(6) The Krasnoyarsk radar is identical to other Soviet ballistic missile early warning radars and is ideally situated to fill the gap that would otherwise exist in a nationwide Soviet ballistic missile early warning radar network.

[2] Sec. 224(b) of Public Law 100–456, stated the sense of the Congress identical to text in paras. (1) and (2).

(b) FURTHER FINDINGS.—In addition to the findings referred to in subsection (a), Congress finds with respect to the Krasnoyarsk radar that—

(1) in 1987 the President declared that radar to be a clear violation of the 1972 Anti-Ballistic Missile Treaty;

(2) until the meeting between the Secretary of State and the Foreign Minister of the Soviet Union at Jackson Hole, Wyoming, in September 1989, the Soviet Union had rejected demands by the United States that it dismantle that radar without conditions, but the joint statement issued following that meeting states that the government of the Soviet Union "had decided to completely dismantle the Krasnoyarsk radar station"; and

(3) on October 23, 1989, the Foreign Minister of the Soviet Union conceded that the Krasnoyarsk radar is a violation of the 1972 Anti-Ballistic Missile Treaty.

(c) SENSE OF CONGRESS.—It is the sense of Congress—

(1) that the Soviet Union should dismantle the Krasnoyarsk radar (as announced in the joint statement referred to in subsection (b)(2)) expeditiously and without conditions; and

(2) that until such radar is completely dismantled it will remain a clear violation of the 1972 Anti-Ballistic Missile Treaty.

**SEC. 1007. SENSE OF CONGRESS CONCERNING EXPLORING THE FEASIBILITY OF TREATY LIMITATIONS ON WEAPONS CAPABLE OF THREATENING MILITARY SATELLITES**

It is the sense of Congress that, as soon as practicable, the President should explore the feasibility of a mutual and verifiable treaty with the Soviet Union which places the strictest possible limitations, consistent with the security interests of the United States and its allies, on the development, testing, production, and deployment of weapons capable of directly threatening United States military satellites.

**SEC. 1008. REPORT ON SATELLITE SURVIVABILITY**

(a) REQUIREMENT FOR REPORT.—The President shall submit to Congress a comprehensive report on United States antisatellite weapon activities and the survivability of United States satellites against current and potential antisatellite weapons deployed by the Soviet Union. The report shall be submitted by March 15, 1990, and shall be submitted in both classified and unclassified versions.

(b) MATTERS TO BE INCLUDED IN REPORT.—The report required by subsection (a) shall include the following:

(1) Detailed information (including funding profiles, expected capabilities, and schedules for development, testing, and deployment) on all United States antisatellite weapon programs.

(2) An analysis of the antisatellite potential of the anticipated deployed version of each Strategic Defense Initiative technology capable of damaging or destroying objects in space.

(3) An assessment of the threat that would be posed to satellites of the United States if the technologies described in paragraphs (1) and (2) were to be tested by the Soviet Union, at levels of performance equal to those intended by the United States, and developed into weapons for damaging or destroying objects in space.

(4) A review of arms control options and satellite survivability measures (including cost data) that would improve the survivability of current and future United States military satellite systems.

(5) A review of alternative means of providing the support to military forces of the United States that is currently provided by United States satellites if those satellites become vulnerable to attack as the result of the deployment by the Soviet Union of antisatellite weapons with the levels of performance contemplated in paragraph (3).

**SEC. 1009. REPORT ON THE DESIRABILITY OF NEGOTIATIONS WITH THE SOVIET UNION REGARDING LIMITATIONS ON ANTISATELLITE CAPABILITIES**

(a) REPORT BY THE PRESIDENT.—The President shall submit to Congress a comprehensive report regarding the desirability of an agreement with the Soviet Union to impose limitations on antisatellite capabilities. The President shall include in such report his determination of whether a ban or other limitations on some or all antisatellite weapons would be verifiable and, if so, whether such a ban or other limitation would be in the national interest of the United States.

(b) MATTERS RELATING TO VERIFICATION.—In making the determination referred to in subsection (a), the President shall—

(1) consider the extent to which on-site inspection measures (as well as national technical means for verification) can increase confidence in the ability of the United States to monitor and verify various agreed-upon antisatellite limitations; and

(2) examine various arms control possibilities, including—

(A) a total ban on antisatellite capability by both the United States and the Soviet Union;

(B) a ban or other limitation on antisatellite weapons with the potential to attack satellites at altitudes above the Van Allen belt; and

(C) a ban or other limitation on antisatellite weapons that operate only in low-Earth orbit.

(c) MATTERS RELATING TO DETERRENCE AND WAR FIGHTING REQUIREMENTS.—In the report required by subsection (a), the President shall also address the following:

(1) The contribution an antisatellite capability of the United States can make toward enhancing deterrence.

(2) The contribution an antisatellite capability can make toward meeting the war fighting requirements of the United States and how such a capability enhances force survivability.

(3) The extent to which (based upon a net assessment) the United States would be better able to meet its war fighting requirements and deterrence objectives if—

(A) the Soviet Union possessed an antisatellite capability and the United States did not possess an antisatellite capability;

(B) neither the United States nor the Soviet Union possessed an antisatellite capability;

(C) the United States and the Soviet Union both possessed a limited antisatellite capability;

(D) the United States and the Soviet Union both possessed an unrestricted antisatellite capability.

(d) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted to Congress not later than May 1, 1990, and shall be submitted in both classified and unclassified versions.

**SEC. 1010. REPORT ON VERIFICATION OF COMPLIANCE WITH AGREEMENTS TO LIMIT NUCLEAR TESTING**

(a) REPORT REQUIREMENT.—The Secretary of Energy shall prepare a report, in classified form, assessing the possible effects on the abilities of the United States to verify compliance by the Soviet Union with any agreement (presently in effect or under negotiation) to limit testing of nuclear devices should any information or data now obtained under any cooperative agreement with any controlled country and used to verify the degree of such compliance be curtailed or become unavailable due to a change in, or severing of, diplomatic relations with such a controlled country. The report shall assess, in particular, whether compliance by the Soviet Union with any such agreement to limit testing of nuclear devices can be fully and reliably verified should such a cooperative agreement be curtailed or terminated. The report shall be prepared in consultation with the Secretary of Defense.

(b) SUBMISSION OF REPORT.—The report prepared under subsection (a) shall be submitted to Congress not later than six months after the date of the enactment of this Act.

(c) CONTROLLED COUNTRY DEFINITION.—For purposes of this section, the term "controlled country" means a country listed in section 620(f)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)(1)).

**SEC. 1011. SENSE OF CONGRESS ON ARMS CONTROL NEGOTIATIONS AND UNITED STATES MODERNIZATION POLICY**

(a) FINDINGS.—Congress makes the following findings:

(1) The United States is currently engaged in a wide range of arms control negotiations in the areas of strategic nuclear forces, strategic defenses, conventional force levels, chemical weapons, and security and confidence building measures.

(2) On May 30, 1989, the North Atlantic Treaty Organization issued a "Comprehensive Concept on Arms Control and Disarmament" which placed a special emphasis on arms control as a means of enhancing security and stability in Europe.

(3) The President has stated that arms control is one of the highest priorities of the United States in the area of security and foreign policy and that the United States will pursue a dynamic, active arms control dialogue with the Soviet Union and the other Warsaw Pact countries.

(4) The United States has already made major proposals at the Conventional Forces in Europe Talks, convened on March 6, 1989, which would result in a dramatic reduction in Soviet and Warsaw Pact conventional forces.

(5) The President, on September 25, 1989, made a major new arms control proposal in the area of chemical weapons.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President is to be commended for pursuing a wide array of arms control initiatives in the context of a multitude

of arms control negotiations, all of which have been designed to enhance global security and result in meaningful, militarily significant reductions in military forces;

(2) Congress fully supports the arms control efforts of the President and encourages the government of the Soviet Union to respond favorably to United States arms control proposals which would require the Soviet Union to reduce its massive quantitative superiority in military weaponry;

(3) the President should seek arms control agreements that would not limit the United States to levels of forces inferior to the limits provided for the Soviet Union; and

(4) the President's efforts to negotiate such agreements is dependent upon the maintenance of a vigorous research and development and modernization program as required for a prudent defense posture.

(c) REAFFIRMATION OF PROHIBITION RELATING TO ENTERING INTO CERTAIN ARMS CONTROL AGREEMENTS.—Congress hereby reaffirms the proviso in the first sentence of section 33 of the Arms Control and Disarmament Act (22 U.S.C. 2573) that no action may be taken under that Act or any other Act that will obligate the United States to disarm or to reduce or limit the Armed Forces or armaments of the United States, except pursuant to the treatymaking power of the President under the Constitution or unless authorized by further affirmative legislation by the Congress.

**SEC. 1012. REPORT ON EFFECT OF SPACE NUCLEAR REACTORS ON GAMMA-RAY ASTRONOMY MISSIONS**

Not later than April 30, 1990, the President shall submit to Congress a report on the potential for interference with gamma-ray astronomy missions that could be caused by the placement in Earth orbit of space nuclear reactors.

**SEC. 1013. SENSE OF CONGRESS ON CHEMICAL WEAPONS NEGOTIATIONS**

(a) FINDINGS.—Congress makes the following findings:

(1) The proliferation of chemical weapons and the repeated use of chemical weapons represent a grave threat to the security and interests of the United States.

(2) The most comprehensive and effective response to the threat posed by the proliferation of chemical weapons is the completion of an effectively verifiable treaty banning the production and stockpiling of all chemical weapons.

(3) The successful completion of a treaty banning all chemical weapons through the negotiations at the multinational United Nations Conference on Disarmament in Geneva should be one of the highest arms control priorities of the United States.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) the President should continue ongoing efforts to establish an agreement with the Soviet Union and other countries establishing a mutual and effectively verifiable agreement to stop the production, proliferation, and stockpiling of all lethal chemical weapons; and

(2) the United States negotiators in Geneva should take concrete steps to initiate proposals regarding the composition of the verification regime for such an agreement that will meet the legitimate concerns of other parties while addressing the security concerns of the United States.

**SEC. 1014. UNITED STATES PROGRAM FOR ON-SITE INSPECTIONS UNDER ARMS CONTROL AGREEMENTS**

(a) FINDINGS CONCERNING ON-SITE INSPECTION PERSONNEL.—Congress makes the following findings:

(1) The United States is currently engaged in multilateral and bilateral negotiations seeking to achieve treaties or agreements to reduce or eliminate various types of military weapons and to make certain reductions in military personnel levels. These negotiations include negotiations for (A) reductions in strategic forces, conventional armaments, and military personnel levels, (B) regimes for monitoring nuclear testing, and (C) the complete elimination of chemical weapons.

(2) Requirements for monitoring these possible treaties or agreements will be extensive and will place severe stress on the monitoring capabilities of United States national technical means.

(3) In the case of the INF Treaty, the United States and the Soviet Union negotiated, and are currently using, on-site inspection procedures to complement and support monitoring by national technical means. Similar on-site inspection procedures are being negotiated for inclusion in possible future treaties and agreements referred to in paragraph (1).

(4) During initial implementation of the provisions of the INF Treaty, the United States was not fully prepared for the personnel requirements for the conduct of on-site inspections. The Director of Central Intelligence has stated that on-site inspection requirements for any strategic arms reduction treaty or agreement will be far more extensive than those for the INF Treaty. The number of locations within the Soviet Union that would possibly be subject to on-site inspections under a START agreement have been estimated to be approximately 2,500 (compared to 120 for the INF Treaty).

(5) On-site inspection procedures are likely to be an integral part of any future arms control treaty or agreement.

(6) Personnel requirements will be extensive for such on-site inspection procedures, both in terms of numbers of personnel and technical and linguistic skills. Since verification requirements for the INF Treaty are already placing severe stress on current personnel resources, the requirements for verification under START and other possible future treaties and agreements may quickly exceed the current number of verification personnel having necessary technical and language skills.

(7) There is a clear need for a database of the names of individuals who are members of the Armed Forces or civilian employees of the United States Government, or of other citizens and nationals of the United States, who are qualified (by reason of technical or language skills) to participate in on-site inspections under an arms control treaty or agreement.

(8) The organization best suited to establish such a database is the On-Site Inspection Agency (OSIA) of the Department of Defense, which was created by the President to implement (for the United States) the on-site inspection provisions of the INF Treaty.

(b) STATUS OF THE OSIA.—(1) Congress finds that—

(A) the Director of the OSIA (currently a brigadier general of the Army) is appointed by the Secretary of Defense with the concurrence of the Secretary of State and the approval of the President;

(B) the Secretary of Defense provides to the Director appropriate policy guidance formulated by the interagency arms control mechanism established by the President;

(C) most of the personnel of the OSIA are members of the Armed Forces (who are trained and paid by the military departments within the Department of Defense) and include linguists, weapons specialists, and foreign area specialists;

(D) the Department of Defense provides the OSIA with substantially all of its administrative and logistic support (including military air transportation for inspections in the Soviet Union and Eastern Europe); and

(E) the facilities in Europe and the United States at which OSIA personnel escort personnel of the Soviet Union conducting inspections under the on-site inspection terms of the INF Treaty are under the jurisdiction of the Department of Defense (or under the jurisdiction of entities that are contractors with the Department of Defense).

(2) In light of the findings in paragraph (1) and the report submitted pursuant to section 909 of Public Law 100–456 entitled "Report to the Congress on U.S. Monitoring and Verification Activities Related to the INF Treaty" (submitted on July 27, 1989), Congress hereby determines that by locating the On-Site Inspection Agency within the Department of Defense for the purposes of administrative and logistic support and operational guidance, and integrating on-site inspection responsibilities under the INF Treaty with existing organizational activities of that Department, the President has been able to ensure that sensitive national security assets are protected and that obligations of the United States under that treaty are fulfilled in an efficient and cost-effective manner.

(c) ESTABLISHMENT OF PERSONNEL DATABASE.—(1) In light of the findings in subsection (a), the Director of the On-Site Inspection Agency shall establish a database consisting of the names of individuals who could be assigned or detailed (in the case of Government personnel) or employed (in the case of non-Government personnel) to participate in the conduct of on-site inspections under any future arms control treaty or agreement that includes provisions for such inspections.

(2) The database should be composed of the names of individuals with skills (including linguistic and technical skills) necessary for the conduct of on-site inspections.

(d) INF TREATY DEFINED.—For purposes of this section, the term "INF Treaty" means the Treaty Between the United States and the

Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, signed in Washington, DC, on December 8, 1987.

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## u. National Defense Authorization Act, Fiscal Year 1989

**Partial text of Public Law 100–456 [H.R. 4481], 102 Stat. 1918, approved September 29, 1988; as amended by Public Law 103–199 [H.R. 3000], 107 Stat. 2317, approved December 17, 1993**

AN ACT To authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

* * * * * * *

## TITLE IX—MATTERS RELATING TO ARMS CONTROL

### SEC. 901. SENSE OF CONGRESS ON EXPANDING CONFIDENCE-BUILDING MEASURES

(a) FINDINGS.—Congress makes the following findings:

(1) Approximately two years have passed since the Conference on Confidence- and Security-Building Measures and Disarmament in Europe (CDE) adjourned in Stockholm following the adoption of measures designed to increase openness and predictability of military activities in Europe.

(2) To date, there have been seven formal observations and challenge inspections which have been conducted in accordance with the Stockholm agreements.

(3) The military leaders of the North Atlantic Treaty Organization have concluded that the Stockholm observations and inspections have positively contributed to an improved understanding of Warsaw Pact forces and capabilities.

(4) The Conventional Stability Talks (CST), which may begin before the end of 1988, will likely require careful and potentially prolonged negotiation.

(5) New negotiations will also begin under the auspices of the Conference on Security and Cooperation in Europe (CSCE) as a follow-on to the Stockholm conference.

(6) The confidence-building measures established at Stockholm could, if expanded, contribute significantly to the success of the CDE follow-on conference and also to the establishment of a procedural framework for verifying a future CST agreement.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should give high priority to developing, in coordination with the North Atlantic Treaty Organization allies of the United States, stabilizing and verifiable proposals for expanding the regime of confidence-building measures in conjunction with the follow-on to the Conference on Confidence- and Security-Building

Measures and Disarmament in Europe (CDE) and the new Conventional Stability Talks (CST).

**SEC. 902.[1] SENSE OF CONGRESS ON START TALKS**

It is the sense of Congress that any agreement negotiated by the President to achieve a reduction and limitation on strategic arms (through the strategic arms reduction talks in Geneva or otherwise)—

(1) should not prevent the United States from deploying a force structure under the agreement which emphasizes survivable strategic systems and, in particular, should not in any way compromise the security of the United States ballistic-missile carrying submarine force, and

(2) should not prohibit or limit the deployment of non-nuclear cruise missiles.

**SEC. 903. SENSE OF CONGRESS CONCERNING ROLE OF CONGRESS IN ARMS CONTROL AND DEFENSE POLICIES**

It is the sense of Congress—

(1) that Congress, in exercising its authority under the Constitution "to raise and support Armies" and "provide and maintain Navies" and, in the case of the Senate, to advise and consent to the ratification of treaties, has a role to play in formulating arms control and defense policies of the United States, but

(2) that Congress, in exercising that authority, should not usurp, undermine, or interfere with the authority of the President under the Constitution to negotiate and implement treaties, especially in the case of treaties which affect arms control and defense policies of the United States.

**SEC. 904. SENSE OF CONGRESS ON THE FIVE-YEAR ABM TREATY REVIEW**

(a) FINDINGS.—Congress makes the following findings:

(1) The Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, With Associated Protocol (hereinafter in this section referred to as the "ABM Treaty" or the "Treaty") in Article XIV, Paragraph 2, reads as follows: "Five years after entry into force of this Treaty, and at five-year intervals thereafter, the Parties shall together conduct a review of this Treaty.".

(2) Such Treaty entered into force on October 3, 1972, and the third five-year anniversary date specified for the conduct of the review contemplated in the Treaty, therefore, was October 3, 1987.

(3) As a fundamental principle of the canons of legal construction, a specified number of years after a specific and determinable date means the specified anniversary of such date and therefore the third five-year review of the ABM Treaty should have begun on or about October 3, 1987.

(4) The Parties to the Treaty have not met as required by the Treaty because the United States refused to meet on the

[1] Sec. 1003 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1541) reaffirmed this sense of the Congress.

date specified in the Treaty for such meeting (October 3, 1987) and has refused since such date to propose a date for the meeting.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that the President should, without any further delay, propose an early date to conduct the overdue five-year review of the ABM Treaty. The President shall inform Congress of the results of that review immediately after it takes place.

**SEC. 905. REVISION OF ANNUAL REPORT ON SOVIET COMPLIANCE WITH ARMS CONTROL COMMITMENTS**

(a)[2] * * *

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect beginning with the report to be submitted under section 1002 of the Department of Defense Authorization Act, 1986, in 1990.

**SEC. 906.**[3] * * * [Repealed—1993]

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[2] Sec. 905(a) had amended sec. 1002 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 22 U.S.C. 2592a). Sec. 403(a)(1) of the Act For Reform In Emerging New Democracies and Support and Help for Improved Partnership with Russia, Ukraine and Other New Independent States ("FRIENDSHIP Act") (Public Law 103–199; 107 Stat. 2325) repealed sec. 1002 of Public Law 99–145.

[3] Formerly at 22 U.S.C. 2592b. Sec. 403(b)(1) of Public Law 103–199 (107 Stat. 2325) repealed sec. 906. The former sec. 906 read as follows:

"**SEC. 906. ANNUAL REPORT ON ARMS CONTROL STRATEGY**

"(a) IN GENERAL.—The President shall submit to Congress each year, not later than December 1, a report containing a comprehensive discussion and analysis of the arms control strategy of the United States. The President shall include in each such report the following:

"(1) A description of the nature and sequence of the future arms control efforts of the United States.

"(2) A net assessment of the current effects of arms control agreements on the status of, and trends in, the military balance between the United States and the Soviet Union and between the North Atlantic Treaty Organization (NATO) and the Warsaw Pact.

"(3) A comprehensive data base on the military balance of forces of the United States and the Soviet Union, and the balance of forces of NATO and the Warsaw Pact countries, that are affected by arms control agreements in existence as of the time of the report between the United States and the Soviet Union and between NATO and the Warsaw Pact, including an explanation of the methodology used to analyze the effects on such forces.

"(4) A net assessment of the effect that proposed arms control agreements between the United States and the Soviet Union and between NATO and the Warsaw Pact would likely have on United States force plans and contingency plans, including an assessment of the effect that such proposed agreements would have on the risks and costs to the United States.

"(5) An assessment of the effect that proposed treaty sub-ceilings, asymmetries, and other factors or qualifications affecting a treaty or arms control proposal would have on the military balance between the United States and the Soviet Union and between NATO and the Warsaw Pact, including an assessment of how such factors increase deterrence and reduce the risk and cost of war.

"(6) A statement of the strategy the United States and NATO will use to verify and deter noncompliance with proposed arms control treaties between the United States and the Soviet Union and between NATO and the Warsaw Pact.

"(7) A discussion of the extent to which and the manner in which the United States intends to consult with its allies regarding proposed arms control agreements between the United States and the Soviet Union and between NATO and the Warsaw Pact.

"(8) A discussion of how the United States proposes to tailor its defense structure in order to ensure that the national security can be preserved with or without arms control agreements.

"(b) EXPLANATION OF METHODOLOGY.—In reporting on the current effect of arms control agreements on the status of, and trends in, the military balance of power between the United States and the Soviet Union and between NATO and the Warsaw Pact (required under paragraphs (2) and (3) of subsection (a)), the President shall—

"(1) specify the methodology used in analyzing the military balance between the United States and the Soviet Union and express the results of such analyses in terms of (A) static comparisons, and (B) comparisons that include dynamic factors; and

**SEC. 907.**[4] * * * [Repealed—1993]

**SEC. 908. ANALYSIS OF ALTERNATIVE STRATEGIC NUCLEAR FORCE POSTURES FOR THE UNITED STATES UNDER A POTENTIAL START TREATY**

(a) FINDINGS.—Congress makes the following findings:

(1) The United States and the Soviet Union are currently engaged in talks regarding the reduction of strategic nuclear arms.

(2) Such talks could result in a treaty requiring deep reductions in the strategic forces of the United States.

(3) Any such Strategic Arms Reduction Treaty (START) cannot be ratified without the advice and consent of the Senate.

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"(2) discuss all major scenarios, assumptions, and contingencies, including political confrontation, full-scale war, and serious confrontations not involving full-scale war.

"(c) FORM OF REPORT.—The President shall submit such report in both classified and unclassified form.".

[4] Sec. 403(c)(1) of Public Law 103–199 (107 Stat. 2325) repealed sec. 907. The former sec. 907 read as follows:

"**SEC. 907. REPORT ON ANTIBALLISTIC MISSILE CAPABILITIES AND ACTIVITIES OF THE SOVIET UNION**

"(a) STUDY.—The President shall conduct a study regarding the antiballistic missile capability and activities of the Soviet Union. In conducting the study, the President shall assess each of the following:

"(1) The military capabilities and significance of the extensive network of large-phased array radars of the Soviet Union.

"(2) Whether the Soviet Union is developing or producing mobile or transportable engagement radars in violation of the 1972 Antiballistic Missile Treaty.

"(3) The ability of the Soviet Union to develop an effective exoatmospheric antiballistic missile defense without using widespread deployments of traditional engagement radars.

"(4) The ability of air defense interceptor missiles of the Soviet Union, now and in the future, to destroy warheads of ballistic missiles in flight.

"(5) Whether silos or other hardened facilities of the Soviet Union located outside of the existing antiballistic missile site permitted near Moscow under the terms of the 1972 Antiballistic Missile Treaty are or could be associated with antiballistic missile defenses not permitted under that Treaty.

"(6) Whether the Soviet Union is developing terminal antiballistic missile defenses.

"(7) Whether the existing antiballistic missile site near Moscow that is permitted under the terms of that Treaty conceals or could conceal development, testing, or deployment by the Soviet Union of a widespread antiballistic missile system.

"(8) Activities of the Soviet Union regarding boost-phase intercepts of ballistic missiles.

"(9) The status of laser programs, particle-beam programs, and other advanced technology programs of the Soviet Union comparable to programs conducted by the United States under the Strategic Defense Initiative.

"(10) The consequences for the United States of a successful effort by the Soviet Union to deploy an effective nationwide or limited antiballistic missile system.

"(b) ASSESSMENT OF ABILITY OF UNITED STATES TO COUNTER A SOVIET ABM SYSTEM.—In conducting the study required by subsection (a), the President shall also assess the ability of the United States to counter effectively an effective antiballistic missile system deployed by the Soviet Union. Such assessment shall consider both the deployment by the Soviet Union of a nationwide, and of a limited, antiballistic missile system. In assessing the ability of the United States to counter effectively such a system, the President—

"(1) shall consider the ability of the United States to modify (A) existing strategic offensive forces (including modifications involving the development of additional penetration aids), and (B) current strategic doctrine and tactics; and

"(2) shall consider whether the actions of the United States described in paragraph (1) could be accomplished over the same period of time that the Soviet Union would require to deploy such an antiballistic missile system.

"(c) REPORT.—Not later than January 1, 1989, the President shall submit to Congress a report, in both a classified and an unclassified version, specifying the results of the study conducted pursuant to this section. The report shall include such recommendations as the President considers appropriate, including recommendations with regard to maintaining the deterrent value of the strategic forces of the United States in light of the antiballistic missile capability and activities of the Soviet Union described in the report.".

Sec. 1004(e) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1542) had waived a requirement for a study outlined in sec. 1004(a) of that Act, if "before the date of submission of the report required by [subsection (d) of that Act] * * * the President submits to Congress the report required by section 907 of the National Defense Authorization Act, Fiscal Year 1989 * * * regarding antiballistic missile capabilities and activities of the Soviet Union * * *.".

(4) Any such START Treaty should result in a stable balance of strategic forces between the United States and the Soviet Union which enhances the security of the United States.

(5) Congress should provide funds for the forces permitted under such a treaty that are required to ensure the stability of the force balance under such a treaty.

(6) Congress faces critical resource choices for fiscal year 1989 and subsequent fiscal years, and the resource choices made by Congress for those years could substantially influence the strategic force posture of the United States in the period after such a treaty goes into effect.

(b) PRESIDENTIAL REPORT.—Before entering into any Strategic Arms Reduction Treaty or other agreement with the Soviet Union for the reduction of strategic arms, but not later than September 15, 1988, the President shall submit to Congress a comprehensive report on the implications such a treaty or agreement might have on the strategic force postures of the United States during the 1990s. The report shall include the following:

(1) A description of alternative force postures that might be permitted for the United States under such an arms reduction agreement, including the posture recommended by the President.

(2) The estimated costs, over at least a seven-year period, associated with each alternative force posture.

(3) The damage limitation capability, the survivability, and the retaliatory potential of such force posture, and the implications for strategic stability, assessed with regard to the likely force postures of the Soviet Union under such an agreement and the first-strike potential of such force postures.

(4) The likely effect of a breakout by the Soviet Union from such an arms control agreement on the survivability and of the force posture of the United States under such an agreement recommended by the President under paragraph (1).

(c) FORM OF REPORT.—The President shall submit the report under subsection (b) in both classified and unclassified form.

**SEC. 909. ON-SITE INSPECTION AGENCY**

(a) REPORT REQUIREMENTS.—(1) Not later than six months after the date of the enactment of this Act, the officers named in paragraph (2) shall each submit to the Committee on Armed Services, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives[5] and the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate an unclassified report, with classified annexes as necessary, on the responsibility of each such officer for the monitoring and verification of arms control agreements. Each such report—

(A) shall address specifically any responsibility the officer submitting the report has with respect to on-site inspections

[5] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

(whether inspections of facilities of the United States or inspections of facilities of another party to the agreement); and

(B) shall set forth the organizational elements of each department or agency over which the officer submitting the report has jurisdiction which have functions related to the monitoring or verification of arms control agreements.

(2) Officers referred to in paragraph (1) are the following:

(A) The Secretary of Defense.

(B) The Secretary of State.

(C) The Director of Central Intelligence.

(D) The Director of the United States Arms Control and Disarmament Agency.

(b) MATTERS TO BE INCLUDED.—Each report under subsection (a) shall—

(1) describe in detail the monitoring and verification activities carried out with respect to the INF Treaty,

(2) evaluate the effectiveness with which these functions have been implemented, and

(3) include recommendations for any future organizational or policy changes that may be necessary in view of the experience of implementing the INF Treaty.

(c) INF TREATY DEFINED.—For purposes of subsection (b), the term "INF Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles (signed at Washington on December 9, 1987).

(d) BUDGET REQUESTS.—Any request submitted to Congress by the Executive Branch for authorization of appropriations for the On-Site Inspection Agency for any fiscal year shall, as a separate activity, provide details of all funding and of all military and civilian personnel requested for that Agency for that fiscal year, including the number of such personnel of the Department of Defense and other agencies that will be assigned to on-site inspection activities and to support such activities during that fiscal year.

**SEC. 910. COORDINATION OF VERIFICATION POLICY AND RESEARCH AND DEVELOPMENT ACTIVITIES**

(a) REPORT.—Not later than June 30, 1989, the President shall submit to Congress a report reviewing the relationship of arms control objectives of the United States with research and development of improved monitoring systems for arms control verification. The review shall include the participation of the Secretaries of Defense, State, and Energy, the Director of Central Intelligence, and the Director of the United States Arms Control and Disarmament Agency.

(b) FINDINGS AND RECOMMENDATIONS.—The report shall include the findings of the President, and such recommendations for improvements as the President considers appropriate, with respect to the following:

(1) The status of coordination among the officers named in subsection (a) in the formulation of the policy of the United States regarding arms control verification.

(2) The status of efforts to ensure that such policy is formulated in a manner which takes into account available monitoring technology.

(3) The status of efforts to ensure that research and development on monitoring technology evolves concurrently with such policy.

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## v. National Defense Authorization Act for Fiscal Years 1988 and 1989

**Partial text of Public Law 100–180 [H.R. 1748], 100 Stat. 1019, approved December 4, 1987; as amended by Public Law 101–189 [National Defense Authorization Act for Fiscal Years 1990 and 1991; H.R. 2461], 103 Stat. 1352, approved November 29, 1989**

AN ACT To authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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## TITLE IX—MATTERS RELATING TO ARMS CONTROL

### SEC. 901. MISSILE TECHNOLOGY CONTROL REGIME

(a) FINDINGS.—The Congress finds that—

(1) the proliferation of nuclear weapons and of missiles capable of the delivery of nuclear weapons is a threat to international peace and security;

(2) in the early 1980's, the danger of the proliferation of such weapons and missiles was formally recognized in discussions among the governments of the United States, Canada, France, the Federal Republic of Germany, Italy, Japan, and the United Kingdom; and

(3) these seven governments, after four years of negotiations, on April 7, 1987, concluded an agreement known as the Missile Technology Control Regime, for the purpose of limiting the proliferation of missiles capable of the delivery of nuclear weapons (and hardware and technology related to such missiles) throughout the world.

(b) EXPRESSIONS OF CONGRESS.—The Congress—

(1) expresses its firm support for the Missile Technology Control Regime as a means of enhancing international peace and security;

(2) expresses its strong hope that all nations of the world will adhere to the Guidelines of the Missile Technology Control Regime; and

(3) expresses its expectation that all relevant agencies of the United States Government will ensure the fully effective implementation of this regime.

(c) REPORT ON MANPOWER REQUIRED TO IMPLEMENT THE MISSILE TECHNOLOGY CONTROL REGIME.—(1) Not later than 60 days after the date of enactment of the National Defense Authorization Act

for Fiscal Year 1990,[1] the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives[2] a report—

(A) identifying the functional responsibilities of the Department of Defense for implementing the Missile Technology Control Regime;

(B) describing the number and skills of personnel currently available in the Department of Defense to perform these functions; and

(C) assessing the adequacy of these resources for the effective performance of these responsibilities.

(2) The report required by paragraph (1) shall identify the total number of current Department of Defense full-time employees or military personnel and the grades of such personnel and the special knowledge, experience, and expertise of such personnel, required to carry out each of the following responsibilities of the Department under the regime:

(A) Review of private-sector export license applications and government-to-government cooperative activities.

(B) Intelligence analysis and activities.

(C) Policy coordination.

(D) International liaison activity.

(E) Enforcement and technology security operations.

(F) Technical review.

(3) The report shall include the Secretary's assessment of the adequacy of staffing in each of the categories specified in subparagraphs (A) through (F) of paragraph (2) and shall make recommendations concerning measures, including legislation if necessary, to eliminate any identified staffing deficiencies and to improve interagency coordination with respect to the regime.

**SEC. 902.[3] SENSE OF CONGRESS ON THE KRASNOYARSK RADAR**

(a) FINDINGS.—The Congress finds the following:

(1) The 1972 Anti-Ballistic Missile Treaty prohibits each party to the Treaty from deploying ballistic missile early warning radars except at locations along the periphery of its national territory and oriented outward.

(2) The 1972 Anti-Ballistic Missile Treaty prohibits each party to the Treaty from deploying an anti-ballistic missile system to defend its national territory and from providing a base for any such nationwide defense.

(3) Large phased-array radars were recognized during negotiation of the 1972 Anti-Ballistic Missile Treaty as the critical long lead-time element of a nationwide defense against ballistic missiles.

(4) In 1983 the United States discovered the construction, in the interior of the Soviet Union near the town of Krasnoyarsk,

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[1] Sec. 1639(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1612; approved November 29, 1989) struck out "February 1, 1988" and inserted in lieu thereof "60 days after the date of enactment of the National Defense Authorization Act for Fiscal Year 1990".

[2] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

[3] Sec. 1003 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1543) reaffirmed this sense of the Congress.

of a large phased-array radar that has subsequently been judged to be for ballistic missile early warning and tracking.

(5) The Krasnoyarsk radar is more than 700 kilometers from the Soviet-Mongolian border and is not directed outward but instead, faces the northeast Soviet border more than 4,500 kilometers away.

(6) The Krasnoyarsk radar is identical to other Soviet ballistic missile early warning radars and is ideally situated to fill the gap that would otherwise exist in a nationwide Soviet ballistic missile early warning radar network.

(7) The President has certified that the Krasnoyarsk radar is an unequivocal violation of the 1972 Anti-Ballistic Missile Treaty.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Soviet Union is in violation of its legal obligation under the 1972 Anti-Ballistic Missile Treaty.

**SEC. 903. REPORT ON COMPLIANCE BY THE SOVIET UNION WITH THRESHOLD TEST BAN TREATY**

(a) IN GENERAL.—The President shall submit to Congress, not later than 30 days after the date of the enactment of this Act, a report discussing the use of the current official United States method of estimating the yield of Soviet underground nuclear tests to determine the extent to which the Soviet Union is complying with the 150 kiloton limit on underground nuclear tests contained in the Threshold Test Ban Treaty.

(b) FORM AND CONTENT OF REPORT.—The report shall be submitted in both classified form and (if possible) unclassified form and shall include the following matters:

(1) A discussion of whether past assessments made by the United States of the extent of Soviet compliance with the 150 kiloton limit contained in the Threshold Test Ban Treaty would have been different if the United States, in making those assessments, had used the current official United States method of estimating the yield of underground nuclear tests conducted by the Soviet Union.

(2) The number of nuclear tests conducted by the Soviet Union after March 31, 1976, that have a central value exceeding 150 kilotons yield (estimated on the basis of the current official method used by the United States in estimating underground nuclear test yields), the central value of those tests (estimated on such basis), and the dates on which those tests were conducted.

(3) The number, dates, and estimated central values of tests, if any, conducted by the United States after March 31, 1976, which, if measured on the basis of the current official method used by the United States in estimating Soviet underground nuclear test yields (taking into account the differences between the United States and Soviet test sites), would have an indicated central value exceeding 150 kilotons yield.

(4) The number of tests conducted by the United States after March 31, 1976, if any, which actually had yields exceeding 150 kilotons, the estimated central value of each such test, and the date on which each such test was conducted.

(5) A description of all nuclear testing activities of the Soviet Union which the President has found to be likely violations of the legal obligations under the Threshold Test Ban Treaty, the dates on which those activities took place, and the specific legal obligations under the Threshold Test Ban Treaty likely to have been violated by the Soviet Union in conducting such activities.

(6) A discussion of whether and, if so, the extent to which, the President, in arriving at his finding that several nuclear tests conducted by the Soviet Union constituted a likely violation of legal obligations under the Threshold Test Ban Treaty, considered the mutual agreement contained in the Threshold Test Ban Treaty which permits one or two minor, unintended breaches of the 150 kiloton limit per year to be considered nonviolations of the Treaty.

(7) A detailed comparison of the current official method used by the United States Government in estimating Soviet underground nuclear test yields with the method replaced by the current method, and the date on which the current official method was adopted by the United States.

**SEC. 904. CONGRESSIONAL FINDINGS AND DECLARATIONS CONCERNING ARMS CONTROL NEGOTIATIONS**

(a) CONGRESSIONAL FINDINGS.—The Congress makes the following findings:

(1) The United States and the Soviet Union are currently engaged in negotiations to conclude a treaty on intermediate-range nuclear forces (INF) and are continuing serious negotiations on other issues of vital importance to the national security of the United States.

(2) The current negotiations, which reflect delicate compromises on both sides, are a culmination of years of detailed and complex negotiations in which the negotiators for the United States have been pursuing a policy consistently advocated by the past two Presidents regarding nuclear arms control in the European theater.

(3) While recognizing fully that the President, under clause 2, section 2, article II of the Constitution, has the power, by and with the advice and consent of the Senate, to make treaties, the Congress also recognizes the special responsibility conferred by the Founding Fathers on the Senate in requiring that it give its advice and consent before a treaty may be ratified by the United States and that in carrying out this responsibility the Senate is accountable to the people of the United States and has a duty to ensure that no treaty is ratified which would be detrimental to the welfare and security of the United States.

(4) In recognition of this responsibility, the Senate has established a special continuing oversight body, the Arms Control Observer Group, which over the last two and one-half years has functioned to provide advice and counsel to the President and his negotiators, when appropriate, on a continuing basis during the course of the negotiations to achieve an INF treaty.

(5) The Senate and the President both have a role under the Constitution in the making of treaties and Congress as a whole

has a role under the Constitution in the regulating of expenditures, including expenditures for weapons systems that may be the subject of treaty negotiations.

(b) CONGRESSIONAL DECLARATIONS.—In light of the findings in subsection (a), Congress—

(1) fully supports the efforts of the President to negotiate stabilizing, equitable, and verifiable arms reduction treaties with the Soviet Union;

(2) endorses the principle of mutuality and reciprocity in arms control negotiations with the Soviet Union and cautions that neither the Congress nor the President should take actions which are unilateral concessions to the Soviet Union; and

(3) urges the President to take care that no provision is agreed to in those negotiations that would be harmful to the security of the United States or its allies and friends.

(c) DECLARATION OF THE SENATE.—The Senate declares that it will reserve judgment regarding the approval of any arms control treaty until it has conducted a thorough examination of the provisions of the treaty and has assured itself that those provisions—

(1) are effectively verifiable; and

(2) serve to enhance the strength and security of the United States and its allies and friends.

**SEC. 905. REPORT ON MILITARY CONSEQUENCES OF THE ELIMINATION OF BALLISTIC MISSILES**

(a) REPORT REQUIREMENT.—Not later than 30 days after the date of the enactment of this Act, the Chairman of the Joint Chiefs of Staff shall submit to the Committees on Armed Services of the Senate and House of Representatives[4] a report examining the military consequences of any arms control agreement between the United States and the Soviet Union that would provide for the elimination of all strategic ballistic missiles of the United States and the Soviet Union.

(b) MATTERS TO BE DISCUSSED.—Such report shall be submitted in both classified and unclassified form and shall include a discussion of the strategic, budgetary, and force structure implications of an agreement described in subsection (a) for—

(1) conventional defenses of the United States and its allies in Europe, the Far East, and other regions vital to the national security of the United States;

(2) tactical nuclear deterrence by the United States in those regions;

(3) strategic offensive retaliatory systems of the United States that would not be affected by such an agreement, including bomber forces and cruise missiles;

(4) air defenses of the United States needed to counter bomber forces and cruise missiles of the Soviet Union;

(5) Strategic Defense Initiative programs designed to provide possible defenses against strategic ballistic missiles; and

(6) any new programs which the Chairman of the Joint Chiefs of Staff may consider necessary in order for the United

[4] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

States to protect its national security interests in light of the relative advantage conferred by such an agreement on other nations possessing nuclear weapons whose strategic ballistic missile forces would not be affected by the agreement.

**SEC. 906. REPORT ON IMPLICATIONS OF CERTAIN ARMS CONTROL POSITIONS**

Not later than June 30, 1988, the Secretary of Defense shall submit to Congress a report, in both classified and unclassified versions, containing the following:

(1) A description of the quantitative and qualitative implications for the strategic modernization program of the United States of the publicly-announced position of the United States at the Strategic Arms Reduction Talks in Geneva, giving special, but not exclusive, attention to the implications of such position for the Trident SSBN program, the rail-garrison Peacekeeper program, and the small intercontinental ballistic missile ("Midgetman") program.

(2) A description of the advantages and drawbacks of following the recommendations made in 1983 in the report of the President's Commission on Strategic Forces with regard to research on smaller ballistic-missile carrying submarines, each carrying fewer missiles than the Trident, as a potential follow-on to the Trident submarine force.

(3) The recommendations of the Secretary of Defense with regard to paragraphs (1) and (2) on United States force modernization policy and arms control policy.

**SEC. 907. SUPPORT FOR NUCLEAR RISK REDUCTION CENTERS**

(a) Congress applauds the recent signing of an agreement between the United States and the Soviet Union on the establishment of nuclear risk reduction centers. Congress regards this agreement as an important and practical first step in reducing the threat of nuclear war due to accident, misinterpretation, or miscalculation. Congress notes that the agreement calls for centers to be established in each nation's respective capital for the routine exchange of information and advanced notification of nuclear and missile testing.

(b) It is the hope of Congress that this first step in nuclear risk reduction will increase the confidence and mutual trust of both parties to the agreement and lead to an expansion in functions to reduce further the chances of accidental war. Such functions may include joint discussions on crisis prevention and the development of strategies to deal with incidents or threats of nuclear terrorism, nuclear proliferation, or other mutually agreed upon issues of concern in reducing nuclear risk.

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## w. Department of Defense Authorization Act, 1987

**Partial text of Public Law 99–661 [S. 2368], 100 Stat. 3816, approved November 14, 1986**

AN ACT To authorize appropriations for fiscal year 1987 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to improve the defense acquisition process, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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## TITLE X—ARMS CONTROL MATTERS

### SEC. 1001. SENSE OF THE CONGRESS RELATING TO SALT II COMPLIANCE

(a) CONTINUED ADHERENCE TO SALT II NUMERICAL SUBLIMITS.—It is the sense of the Congress that it is in the national security interests of the United States to continue voluntary compliance with the central numerical sublimits of the SALT II Treaty as long as the Soviet Union complies with such sublimits.

(b) DEFINITION.—For purposes of this section, the central numerical sublimits of the SALT II Treaty include prohibitions on the deployment of the following:

(1) Launchers for more than 820 intercontinental ballistic missiles carrying multiple independently-targetable reentry vehicles.

(2) Launchers for an aggregate of more than 1,200 intercontinental ballistic missiles carrying multiple independently-targetable reentry vehicles and submarine-launched ballistic missiles carrying multiple independently-targetable reentry vehicles.

(3) An aggregate of more than 1,320 launchers described in paragraph (2) and heavy bombers equipped for air-launched cruise missiles capable of a range in excess of 600 kilometers.

### SEC. 1002. SENSE OF THE CONGRESS ON NUCLEAR TESTING

(a) FINDINGS.—The Congress makes the following findings:

(1) The United States is committed in the Limited Test Ban Treaty of 1963 and in the Non-Proliferation Treaty of 1968 to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time.

(2) A comprehensive test ban treaty would promote the security of the United States by constraining the United States-Soviet nuclear arms competition and by strengthening efforts to prevent the proliferation of nuclear weapons.

(3) The Threshold Test Ban Treaty was signed in 1974 and the Peaceful Nuclear Explosions Treaty was signed in 1976,

and both have yet to be considered by the full Senate for its advice and consent to ratification.

(4) The entry into force of the Peaceful Nuclear Explosions Treaty and the Threshold Test Ban Treaty will ensure full implementation of significant new verification procedures and so make completion of a comprehensive test ban treaty more probable.

(5) A comprehensive test ban treaty must be adequately verifiable, and significant progress has been made in methods for detection of underground nuclear explosions by seismological and other means.

(6) At present, negotiations are not being pursued by the United States and the Soviet Union toward completion of a comprehensive test ban treaty.

(7) The past five administrations have supported the achievement of a comprehensive test ban treaty.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, at the earliest possible date, the President should—

(1) request the advice and consent of the Senate to ratification (with a report containing any plans the President may have to negotiate supplemental verification procedures, or if the President believes it necessary, any understanding or reservation on the subject of verification which should be attached to the treaty) of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties, signed in 1974 and 1976, respectively; and

(2) propose to the Soviet Union the immediate resumption of negotiations toward conclusion of a verifiable comprehensive test ban treaty.

In accordance with international law, the United States shall have no obligation to comply with any bilateral arms control agreement with the Soviet Union that the Soviet Union is violating.

**SEC. 1003. REPORT BY THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF ON UNITED STATES NON-COMPLIANCE WITH EXISTING STRATEGIC OFFENSIVE ARMS AGREEMENTS**

(a) IN GENERAL.—The Chairman of the Joint Chiefs of Staff shall submit to Congress a report containing a detailed assessment of—

(1) the military consequences to the United States of a policy decision by the United States to discontinue compliance with the major provisions of existing strategic offensive arms limitations agreements (including central numerical sublimits on strategic nuclear delivery vehicles in the SALT II accord) would have on the security of the United States; and

(2) the likely military responses of the Soviet Union to such a policy decision.

(b) MATTERS TO BE CONSIDERED.—The assessment required by subsection (a) shall focus on what the likely Soviet military responses would be during the period between 1987 and 1996. In making such assessment, the Chairman shall specifically consider the following:

(1) The effect on the ability of United States strategic forces to accomplish their nuclear deterrent mission (including the effect on the survivability of United States strategic forces and

on the ability of United States strategic forces to achieve required damage expectancies against Soviet targets) of any expansion of Soviet military capabilities undertaken in response to a United States decision to abandon compliance with existing strategic offensive arms agreements.

(2) The additional cost to the United States, above currently projected military expenditures for those periods for which such budget projections are available, of research, development, production, deployment, and annual operations and support for any additional strategic forces required to country any expansion in Soviet military capabilities undertaken in response to a United States decision to abandon compliance with existing strategic offensive arms agreements.

(3) Under average annual real growth projections in defense spending of 0 percent, 1 percent, 2 percent, and 3 percent, the percent of the annual defense budget in each year between fiscal year 1987 and fiscal year 1996 which would be consumed by increased United States strategic forces needed to counter the Soviet force expansions.

(4) The military effect on United States national security of the diversion the funds identified under paragraph (2) away from nonstrategic defense programs and to strategic programs to counter expanded Soviet strategic capabilities, including the military effect of such a diversion on the ability of United States conventional forces to meet the specific non-nuclear defense commitments of the United States as a member of the North Atlantic Treaty Organization and under the 1960 Treaty of Mutual Cooperation and Security with Japan.

(5) The military implications for the United States of Soviet violations of offensive arms control agreements that have been determined.

(c) REPORT REQUIREMENTS.—(1) The Chairman shall—

(A) include in the report required under subsection (a) the individual views of the other members of the Joint Chiefs of Staff; and

(B) submit such report in both classified and unclassified form.

(2) The report required by subsection (a) shall be submitted not later than December 19, 1986.

(e)[1] RESTRICTION ON OBLIGATION OF FUNDS.—If the Chairman of the Joint Chiefs of Staff fails to submit the report required by subsection (a) before December 20, 1986, no funds may be obligated or expended, directly or indirectly, on or after such date by the Organization of the Joint Chiefs of Staff for any study or analysis to be conducted by a civilian contractor until such report is received by Congress.

**SEC. 1004. SENSE OF CONGRESS EXPRESSING SUPPORT FOR A CENTRAL ROLE FOR NUCLEAR RISK REDUCTION CENTERS**

(a) CONGRESSIONAL STATEMENTS.—The Congress—

(1) has expressed its prior support for the establishment of nuclear risk reduction centers; and

[1] As enrolled; there is no subsec. (d).

(2) supports the President's willingness to negotiate an agreement with the Soviet Union to establish such centers in each nation.

(b) SENSE OF CONGRESS.—It is the sense of Congress that if an agreement on nuclear risk reduction centers is signed, the United States center should—

(1) be assigned the responsibility to serve as the center of activity for United States risk reduction activities under the agreement; and

(2) make recommendations to the Assistant to the President for National Security Affairs regarding additional risk reduction arrangements that might be proposed to the Soviet Union.

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## x. Department of Defense Authorization Act, 1986

**Partial text of Public Law 99–145 [S. 1160], 99 Stat. 583, approved November 8, 1985; as amended by Public Law 99–190 [Further Continuing Appropriations, 1985; H.J. Res. 465]; 99 Stat. 1185, approved December 19, 1985; Public Law 100–456 [National Defense Authorization Act for Fiscal Year 1989, H.R. 4481], 102 Stat. 1918, approved September 29, 1988; and Public Law 103–199 [FRIENDSHIP Act; H.R. 3000], 103 Stat. 2317, approved December 17, 1993**

AN ACT To authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for the Department of Defense for fiscal year 1986, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize appropriations for fiscal year 1986 for national security programs of the Department of Energy, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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## TITLE X—MATTERS RELATING TO ARMS CONTROL

### SEC. 1001. POLICY ON COMPLIANCE WITH EXISTING STRATEGIC OFFENSIVE ARMS AGREEMENTS

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should vigorously pursue with the Soviet Union the resolution of concerns of the United States over Soviet compliance with existing strategic arms control agreements and should seek corrective actions through confidential diplomatic channels, including, if appropriate, the Standing Consultative Commission and the Nuclear and Space Arms negotiations;

(2) the Soviet Union should take positive steps to resolve the compliance concerns of the United States about existing strategic offensive arms agreements in order to maintain the integrity of those agreements and to strengthen the positive environment necessary for the successful negotiation of a new strategic offensive arms agreement;

(3) the United States should continue, through December 31, 1986, to refrain from undercutting the provisions of existing strategic offensive arms agreements—

(A)(i) to the extent that the Soviet Union refrains from undercutting those provisions; and

(ii) if the Soviet Union actively pursues arms reduction agreements in the Nuclear and Space Arms negotiations; or

(B) until a new strategic offensive arms agreement between the United States and the Soviet Union is concluded;

(4) the President—

(A) should carefully consider the impact of any change in the current policy of the United States regarding existing strategic offensive arms agreements on the long-term security interests of the United States and its allies; and

(B) should consult with Congress before making any change in that policy; and

(5) any decision by the President to continue the existing United States no-undercut policy beyond December 31, 1986, should be a matter for consultation between the President and Congress and for subsequent review and debate by Congress.

(b) REQUIREMENT FOR REPORT.—Not later than February 1, 1986, the President shall submit to Congress a report containing the following:

(1) A range of projections and comparisons, on a year-by-year basis, of United States and Soviet strategic weapons dismantlements that would be required over the next five years if the United States and the Soviet Union were to adhere to a policy of not undercutting existing strategic arms control agreements.

(2) A range of projections and comparisons, on a year-by-year basis, of likely United States and Soviet strategic offensive force inventories over the next five years assuming a termination at the end of 1985 in the current no-undercut policy.

(3) An assessment of the possible Soviet political, military, and negotiating responses to the termination of the United States no-undercut policy.

(4) Recommendations regarding the future of United States interim restraint policy.

(c) PROPOSAL OF MEASURES.—If the President finds and reports to Congress that—

(1) the Soviet Union has violated the provisions of any strategic arms agreement; and

(2) such violations impair or threaten the security of the United States,

the President may propose to Congress such measures as he considers necessary to protect the security of the United States.

(d) SCOPE OF POLICY.—Nothing in this section shall be construed—

(1) to restrain or inhibit the constitutional powers of the President;

(2) to endorse unilateral United States compliance with existing strategic arms agreements;

(3) as prohibiting the United States from carrying out proportionate responses to Soviet undercutting of strategic arms provisions;

(4) as prohibiting or delaying the development, flight testing, or deployment of the small intercontinental ballistic missile (SICM)[1] as authorized by law; or

(5) as establishing a precedent to continue the no-undercut policy beyond December 31, 1986.

[1] Should read "SICBM".

**SEC. 1002.**[2] * * * [Repealed—1993]

**SEC. 1003. STUDY OF ARMS CONTROL VERIFICATION CAPABILITIES**

(a) INTERAGENCY STUDY.—The President shall provide for an interagency study with the purpose of determining possible avenues for cooperation between the United States and the Soviet Union in the development of capabilities not subject to national security restrictions for verification of compliance with arms control agreements.

(1) limited exchanges of data and scientific personnel; and

(2) the conduct of a joint technological effort in the area of seismic monitoring.

(b) AGENCIES INCLUDED.—The President shall provide for participation in the interagency study under subsection (a) by—

(1) the Secretary of State;

(2) the Secretary of Defense;

(3) the Secretary of Energy;

(4) the Director of the Arms Control and Disarmament Agency;

(5) the heads of appropriate intelligence agencies;

(6) the Joint Chiefs of Staff; and

(7) such other officers as the President may designate.

(c) REPORT.—(1) The President shall submit to Congress a report on the results of the interagency study.

(2) The report shall be submitted in both a classified and unclassified version.

(3) The report shall be submitted not later than May 1, 1986.

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[2] Formerly at 22 U.S.C. 2592a. Sec. 403(a)(1) of the Act For Reform In Emerging New Democracies and Support and Help for Improved Partnership with Russia, Ukraine and Other New Independent States ("FRIENDSHIP Act") (Public Law 103–199; 107 Stat. 2325) repealed sec. 1002. The former sec. 1002 read as follows:

"**SEC. 1002. ANNUAL REPORT ON SOVIET COMPLIANCE WITH ARMS CONTROL COMMITMENTS**

"(a) ANNUAL REPORT.—Not later than December 1 of each year, the President shall submit to Congress a report containing the findings of the President with respect to the compliance of the Soviet Union with its arms control commitments and any additional information necessary to keep Congress currently informed.

"(b) MATTERS TO BE INCLUDED.—The President shall specifically include in each such report the following:

"(1) A summary of the current status of all arms control agreements in effect between the United States and the Soviet Union.

"(2) An assessment of all violations by the Soviet Union of such agreements and the risks such violations pose to the national security of the United States and its allies.

"(3) A net assessment of the aggregate military significance of all such violations.

"(4) A statement of the compliance policy of the United States with respect to violations by the Soviet Union of those agreements.

"(5) What actions, if any, the President has taken or proposes to take to bring the Soviet Union into compliance with its commitments under those agreements.

"(c) CONTINGENT ADDITIONAL INFORMATION.—If the President in any second consecutive report submitted to Congress under this section reports that the Soviet Union is not in full compliance with all arms control agreements between the United States and the Soviet Union, the President shall include in such report an assessment of what actions are necessary to compensate for such violations.

"(d) CLASSIFICATION OF REPORTS.—Each report under this section shall be submitted in both classified and unclassified versions.".

Sec. 905(a) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2032), had earlier amended and restated sec. 1002. It had formerly read as follows:

"Not later than December 1, 1985, and not later than December 1 of each following year, the President shall submit to the Congress a report (in both classified and unclassified versions) containing, with respect to the compliance of the Soviet Union with its arms control commitments, the findings of the President and any additional information necessary to keep the Congress currently informed.".

In accord with sec. 905(b) of Public Law 100–456, this amendment took effect beginning with the report to be submitted under sec. 1002 of the Department of Defense Authorization Act, 1986, in 1990.

**SEC. 1004. SENSE OF CONGRESS RELATING TO UNITED STATES-SOVIET NEGOTIATIONS ON REDUCTION IN NUCLEAR ARMS**

It is the sense of the Congress—

(1) that the President of the United States and the General Secretary of the Communist Party of the Union of Soviet Socialist Republics should be commended for their willingness to meet to discuss major issues in United States-Soviet relations; and

(2) that following thorough preparation, such meetings should be used to work for the realization of mutual, equitable, and verifiable reductions in nuclear arms.

**SEC. 1005. PILOT PROGRAM FOR EXCHANGE OF CERTAIN HIGH–RANKING MILITARY AND CIVILIAN PERSONNEL WITH THE SOVIET UNION**

(a) SUBMISSION OF PLAN.—The Secretary of Defense shall submit to the appropriate committees of Congress a plan for the establishment and operation during fiscal year 1986 of a pilot program for the exchange of visits between—

(1) high-ranking officers of the Armed Forces of the United States and high-ranking civilian officials of the Department of Defense; and

(2) corresponding high-ranking officers and officials of the Soviet Union.

(b) REQUIREMENTS OF PLAN.—Such plan shall include—

(1) specific identification of the United States officers and officials selected for participation in the program;

(2) the proposed length of the exchange visits with the Soviet Union;

(3) a description of the specific goals of each exchange visit;

(4) an estimate of the cost to the United States of participation in each visit;

(5) a description of any special actions that will be taken to protect classified information of the United States during any visit to the United States by officers or officials of the Soviet Union who are participating in the program; and

(6) any other details of the program that the Secretary considers appropriate.

(c) AVAILABILITY OF FUNDS.—Of the funds appropriated pursuant to section 301(a), the sum of $100,000 shall be available only for costs required for participation by the United States in the pilot program described in subsection (a), including costs for travel, subsistence, and other support expenses.

(d) DEADLINE FOR PLAN.—The Secretary shall submit the plan required by subsection (a) not later than December 1, 1985.

**SEC. 1006. REPORT ON NUCLEAR WINTER FINDINGS AND POLICY IMPLICATIONS**

(a) CONTINUED PARTICIPATION IN INTERAGENCY STUDIES.—Notwithstanding any limitation in any other provision of this Act, the Secretary of Defense, in accordance with section 1107(a) of the Department of Defense Authorization Act, 1985 (Public Law 98–525), shall participate in any comprehensive interagency study conducted on the atmospheric, climatic, environmental, and biological consequences of nuclear war and the implications that such consequences have for the nuclear weapons strategy and policy, the

arms control policy, and the civil defense policy of the United States.

(b) REPORT ON NUCLEAR WINTER FINDINGS.—Not later than March 1, 1986, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives[3] an unclassified report suitable for release to the public, together with classified addenda (if required), concerning the subject described in subsection (a). The Secretary shall include in such report the following:

(1) A detailed review and assessment of the findings in the current body of domestic and international scientific literature on the atmospheric, climatic, environmental, and biological consequences of nuclear explosions and nuclear exchanges.

(2) A thorough evaluation of the implications that such findings have on—

(A) the nuclear weapons policy of the United States, especially with regard to strategy, targeting, planning, command, control, procurement, and deployment;

(B) the nuclear arms control policy of the United States; and

(C) the civil defense policy of the United States.

(3) A discussion of the manner in which the results of such evaluation of policy implications will be incorporated into the nuclear weapons, arms control, and civil defense policies of the United States.

(4) An analysis of the extent to which current scientific findings on the consequences of nuclear explosions are being studied, disseminated, and used in the Soviet Union.

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[3] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.

## y. Department of Defense Authorization Act, 1985

**Partial text of Public Law 98–525 [H.R. 5167], 98 Stat. 2492, approved October 19, 1984; as amended by Public Law 100–180 [National Defense Authorization Act for Fiscal Years 1988 and 1989, H.R. 1748], 101 Stat. 1019, approved December 4, 1987**

AN ACT To authorize appropriations for fiscal year 1985 for the military functions of the Department of Defense, to prescribe military personnel levels for that fiscal year for the Department of Defense, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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### TITLE XI—MATTERS RELATING TO ARMS CONTROL

#### REPORT ON STRATEGIC NUCLEAR SUBMARINE FORCE

SEC. 1101. Not later than April 1, 1985, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives [1] a report on the survivability of the United States strategic nuclear ballistic missile submarine force. The report shall address whether there are grounds for adjusting, in short or long-range terms, strategic force plans of the United States based on any vulnerability or potential vulnerability of such force. The report shall also examine the feasibility and desirability of enhancing the survivability of such force through measures that would affect antisubmarine warfare, including the nature of the patrols and the rules of engagement of attack submarines and the nature of the patrols and the rules of engagement of ballistic missile submarines.

#### ANNUAL REPORT ON STRATEGIC DEFENSE PROGRAMS

SEC. 1102.[2] * * * [Repealed—1987]

#### REPORT ON THEATER NUCLEAR WEAPONS AND FORCE STRUCTURE

SEC. 1103. Not later than January 19, 1985, the President shall submit to Congress a report setting forth reasons why the United States should or should not initiate a long-term program for the renovation of the North Atlantic Treaty Organization (NATO) nuclear deterrent in a manner designed to reduce pressures for early first use of tactical nuclear weapons and to substantially reduce the theater nuclear arsenal to types and numbers of weapons whose

[1] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives.
[2] Sec. 231(b) of Public Law 100–180 (101 Stat. 1019) repealed sec. 1102.

characteristics make for a more stable and credible force. The report (in addition to any other matter covered) should specifically address the following issues:

(1) Whether NATO should not eliminate its reliance on short-range battlefield nuclear weapons (such as the atomic demolition bomb and 155-millimeter and 8-inch nuclear artillery rounds), the exposure of which to early loss from enemy action promotes pressures for early use.

(2) Whether NATO should not refurbish its nuclear deterrent by designing and deploying specific dedicated nuclear launchers of a range which permits the coverage of all potential targets from locations in the rear of the European NATO territory in the territory of the Warsaw Pact short of the territory of the Soviet Union, thereby reducing pressure from enemy action for early first use of nuclear weapons.

(3) Whether NATO should not, as a consequence of a change in policy described in paragraph (2), eliminate its inventory of dual-capable nuclear/conventional weapons in order to allow early use of artillery, aircraft, and surface-to-surface missiles for conventional missions rather than causing them to be withheld for possible nuclear use.

(4) Whether NATO should not place control and operation of tactical nuclear weapons in a single specialized command established for that purpose so that all other NATO force elements could be free to concentrate on pursuing conventional military missions with maximum efficiency.

REPORT ON WITHDRAWAL OF TACTICAL NUCLEAR WARHEADS FROM EUROPE

SEC. 1104. The President shall submit a report to Congress not later than 90 days after the final decision is made (based upon the recommendations of the Supreme Allied Commander, Europe) regarding the net reduction to be made by the United States in the number of tactical nuclear warheads in the territory of North Atlantic Treaty Organization European member nations pursuant to the decision of the Nuclear Planning Group of the North Atlantic Treaty Organization of October 17, 1983. The report shall—

(1) specify the types of warheads to be withdrawn in accordance with that decision, the number of each such warhead to be withdrawn, the schedule for the withdrawal, and the rationale for the selection of the particular warheads to be withdrawn; and

(2) any changes in force structure to be made resulting from the changes in the tactical nuclear warheads positioned in Europe.

REPORT ON UNITED STATES COUNTERFORCE CAPABILITY

SEC. 1105. (a) Not later than April 15, 1985, the President shall submit to Congress a report discussing the required strategic counterforce capability consistent with existing United States policy.

(b) The report under subsection (a) shall be developed taking into consideration current and proposed United States intercontinental

ballistic missiles having an accuracy on the order of the MX missile (including specifically the MX missile, the D–5 Trident missile, and the small single-warhead missile) intended to be procured for United States strategic force modernization and the rationale for the overall counterforce capability that would be attained as a cumulative result of those procurements. The President shall include in the report a specific definition of what United States counterforce capability would constitute a so-called "first-strike capability" against the Soviet Union.

(c) The report shall also include an assessment of corresponding Soviet counterforce and first-strike capabilities.

TRANSMITTAL TO CONGRESS OF REPORT ON SOVIET COMPLIANCE WITH ARMS CONTROL AGREEMENTS

SEC. 1106. (a) Not later than 30 days after the date of the enactment of this Act, the President shall transmit to Congress the text of the report by the General Advisory Committee on Arms Control of the arms Control and Disarmament Agency entitled "A Quarter Century of Soviet Compliance Practices Under Arms Control Commitments: 1958–1983 (U)", dated November 1983. If the President determines that that report contains material the release of which to Congress would compromise United States intelligence sources, methods of intelligence gathering, or the national security of the United States, the President may furnish the text of such report after deleting or modifying such compromising material.

(b) Not later than 60 days after the date of the enactment of this Act, the President shall transmit to Congress an unclassified version of the report described in subsection (a).

REPORT ON NUCLEAR WINTER FINDINGS AND POLICY IMPLICATIONS

SEC. 1107. (a) The Secretary of Defense shall participate in any comprehensive study of the atmospheric, climatic, environmental, and biological consequences of nuclear war and the implications that such consequences have for the nuclear weapons strategy and policy, the arms control policy, and the civil defense policy of the United States.

(b) Not later than March 1, 1985, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives[1] an unclassified report suitable for release to the public, together with classified addenda (if required), concerning the subject described in subsection (a). The Secretary shall include in such report the following:

(1) A detailed review and assessment of the current scientific studies and findings on the atmospheric, climatic, environmental, and biological consequences of nuclear explosions and nuclear exchanges.

(2) A thorough evaluation of the implications that such studies and findings have on (A) the nuclear weapons policy of the United States, especially with regard to strategy, targeting, planning, command, control, procurement, and deployment, (B) the nuclear arms control policy of the United States, and (C) the civil defense policy of the United States.

(3) A discussion of the manner in which the results of such evaluation of policy implications will be incorporated into the nuclear weapons, arms control, and civil defense policies of the United States.

(4) An analysis of the extent to which current scientific findings on the consequences of nuclear explosions are being studied, disseminated, and used in the Soviet Union.

SENSE OF THE CONGRESS RELATING TO THE ESTABLISHMENT OF NUCLEAR RISK REDUCTION CENTERS IN THE UNITED STATES AND THE SOVIET UNION

SEC. 1108. (a) The Congress makes the following findings:

(1) An increasing number of scenarios (including misjudgment, miscalculation, misunderstanding, possession of nuclear arms by a terrorist group or a State sponsored threat) could precipitate a sudden increase in tensions and the risk of a nuclear confrontation between the United States and the Soviet Union, situations that neither side anticipates, intends, or desires.

(2) There has been a steady proliferation throughout the world of the knowledge, equipment, and materials necessary to fabricate nuclear weapons.

(3) Such proliferation of nuclear capabilities suggests an increasing potential for nuclear terrorism, the cumulative risk of which, considering potential terrorist groups and other threats over a period of years into the future, may be great.

(4) Current communications links represent equipment of the 1960's and as such are relatively outdated and limited in their capabilities.

(5) The President, responding to congressional initiatives, proposed the establishment of additional and improved communications links between the United States and the Soviet Union and other measures to reduce the risk of nuclear confrontation, and has initiated discussions at a working level with the Soviet Union pertaining to—

(A) the addition of a high speed facsimile capability to the direct communication link (hotline);

(B) the creation of a joint military communications link between the Department of Defense and the Soviet Defense Ministry; and

(C) the establishment by the Governments of the United States and Soviet Union of high-rate data communication links between each nation and its embassy in the other nation's capital.

(6) The establishment of nuclear risk reduction centers in Washington and Moscow could reduce the risk of increased tensions and nuclear confrontations, thereby enhancing the security of both the United States and the Soviet Union.

(7) These centers could serve a variety of functions, including—

(A) discussing procedures to be followed in the event of possible incidents involving the use of nuclear weapons by third parties;

(B) maintaining close contact during nuclear threats or incidents precipitated by third parties;

(C) exchanging information on a voluntary basis concerning events that might lead to the acquisition of nuclear weapons, materials, or equipment by subnational groups;

(D) exchanging information about United States-Union of Soviet Socialist Republics military activities which might be misunderstood by the other party during periods of mounting tensions; and

(E) establishing a dialog about nuclear doctrines, forces, and activities.

(8) The continuing and routine implementation of these various activities could be facilitated by the establishment within each Government of facilities, organizations, and bureaucratic relationships designated for these purposes, such as risk reduction centers, and by the appointment of individuals responsible to the respective head of state with responsibilities to manage such centers.

(b) The Congress—

(1) commends the President for his announced support for the confidence building measures described in subsection (a) and his initiation of negotiations which have occurred; and

(2) urges the President to pursue negotiations on these measures with the Government of the Soviet Union and to add to these negotiations the establishment of nuclear risk reduction centers in both nations to be operated under the direction of the appropriate diplomatic and defense authorities.

SENSE OF CONGRESS REGARDING A REPORT TO CONGRESS ON CERTAIN VERIFICATION PROGRAMS RELATING TO BIOLOGICAL AND CHEMICAL WEAPONS

SEC. 1109. (a) The Congress makes the following findings:

(1) The Iran-Iraq war has recently demonstrated a marked increase in the proliferation of technology on the production of chemical weapons and an increase in the willingness of nations to use such weapons in armed conflict.

(2) The President's Report to Congress on Soviet Arms Control Noncompliance concluded that the Soviet Union has refused to respond adequately to United States concerns about the transfer or use by the Soviet Union of lethal chemical warfare agents in Laos, Kampuchea, and Afghanistan and United States concerns about adherence by the Soviet Union to the 1972 Biological and Toxin Weapons Convention.

(3) Experts at the recent annual meeting of the American Association for the Advancement of Science and at the First World Congress on New Compounds in Biological and Chemical Warfare held at Ghent, Belgium, emphasized that better verification of the use of chemical weapons and of the development of biological and toxin weapons was essential to strengthen the 1972 Biological and Toxin Weapons Convention and the Geneva Protocol of 1925.

(4) The 1972 Biological and Toxin Weapons Convention is scheduled for review in 1985.

(5) The United States is anxious to promote and strengthen adherence to the Geneva Protocol of 1925 and the 1972 Biological and Chemical Weapons Convention and is vigorously pursuing a comprehensive, verifiable, international agreement to ban chemical weapons.

(6) Any comprehensive agreement intended to ban the production, storage, and transfer of chemical weapons must provide for effective measures of verification and enforcement and in order for the 1972 Biological and Toxin Weapons Convention to be effective, compliance with the terms of the convention must be verifiable; and

(7) The Congress must be well informed regarding existing and planned programs for verifying compliance with the 1972 Biological and Toxin Weapons Convention and with a chemical weapons ban agreement.

(b) It is the sense of Congress that the President should submit to the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate and to the Committee on Foreign Affairs[3] and the Permanent Select Committee on Intelligence of the House of Representatives a comprehensive report identifying and evaluating—

(1) existing and planned programs to support verification requirements necessary to determine compliance with the 1972 Biological and Toxin Weapons Convention and a chemical weapons ban; and

(2) the budget resources necessary to support verification requirements necessary to determine compliance with the 1972 Biological and Toxin Weapons Convention and a chemical weapons ban.

(c) The President is requested to submit the report referred to in subsection (b) to the committees referred to in such subsection not later than December 31, 1984.

SENSE OF CONGRESS EXPRESSING SUPPORT FOR UNITED STATES TO PURSUE OUTSTANDING ARMS CONTROL COMPLIANCE

SEC. 1110. (a) The Congress makes the following findings:

(1) It is a vital security objective of the United States to limit the Soviet nuclear threat against the United States and its allies.

(2) The President has declared that "as for existing strategic arms agreements, we will refrain from actions which undercut them so long as the Soviet Union shows equal restraint".

(3) The United States has legitimate concerns about certain Soviet actions and behavior relevant to limitations and other provisions of existing strategic arms agreements.

(4) The President has declared that "the United States will continue to press compliance issues with the Soviet Union

[3] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

through diplomatic channels, and to insist upon explanations, clarifications, and corrective actions".

(5) The President has also declared that "the United States is continuing to carry out its obligations under relevant agreements".

(6) It would be detrimental to the security interests of the United States and its allies and to international peace and stability for the last remaining limitations on strategic offensive nuclear weapons to break down or lapse before replacement by a new strategic arms control agreement between the United States and the Soviet Union.

(7) The continuation of existing restraints on strategic offensive nuclear arms would provide an atmosphere more conducive to achieving an agreement significantly reducing the levels of nuclear arms.

(8) The Soviet Union has not agreed to a date for resumption of the nuclear arms talks in Geneva, and it is incumbent on the Soviet Union to return to the negotiating table.

(9) A termination of existing restraints on strategic offensive nuclear weapons could make the resumption of negotiations more difficult.

(10) Both sides have, to date, abided by important numerical and other limits contained in existing strategic offensive arms agreements, including dismantling operational missile-firing submarines and remaining within the ceilings on multiple-warhead missile launchers and other related limits.

(11) It is in the interest of the United States and its allies for the Soviet Union to continue to dismantle older missile-firing submarines as new ones are deployed and to continue to remain at or below a level of 820 launchers of intercontinental ballistic missiles with multiple independently targeted reentry vehicles, 1,200 launchers of intercontinental ballistic missiles with multiple independently targeted reentry vehicles and submarine launched ballistic missiles, and 1,320 launchers of intercontinental ballistic missiles with multiple independently targeted reentry vehicles and submarine launched ballistic missiles and heavy bombers equipped with air launched cruise missiles, and other related limits in existing strategic offensive arms agreements.

(b) In view of these findings, it is the sense of Congress that—

(1) the United States should vigorously pursue with the Soviet Union the resolution of concerns over compliance with existing strategic and other arms control agreements and should seek corrective actions, where appropriate, through the Standing Consultative Commission and other available diplomatic channels;

(2) The United States should, through December 31, 1985, continue to pursue its stated policy to refrain from undercutting the provisions of existing strategic offensive arms agreements so long as the Soviet Union refrains from undercutting the provisions of those agreements, or until a new strategic offensive arms agreement is concluded;

(3) the President should provide a report to the Congress in both classified and unclassified forms reflecting additional findings regarding Soviet adherence to such a no-undercut policy, by February 15, 1985;

(4) the President shall provide to Congress on or before June 1, 1985, a report that—

(A) describes the implications of the United States Ship Alaska's sea trials, both with and without the concurrent dismantling of older launchers of missiles with multiple independently targeted reentry vehicles with multiple independently targeted reentry vehicles, for the current United States no-undercut policy and strategic arms and United States security interests more generally;

(B) assesses possible Soviet political, military, and negotiating responses to the termination of the United States no-undercut policy;

(C) reviews and assesses Soviet activities with respect to existing strategic offensive arms agreements; and

(D) makes recommendations regarding the future of United States interim restraint policy; and

(5) the President should carefully consider the impact of any change to this current policy regarding existing strategic offensive arms agreements on the long-term security interests of the United States and its allies and should consult with the Congress before making any change in current policy.

POLICY ON THE STATUS OF CERTAIN TREATIES TO PREVENT NUCLEAR TESTING

SEC. 1111. (a) The Senate makes the following findings:

(1) The United States is committed in the Limited Test Ban Treaty of 1963 and in the Non-Proliferation Treaty of 1968 to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time.

(2) A comprehensive test ban treaty would promote the security of the United States by constraining the United States-Soviet nuclear arms competition and by strengthening efforts to prevent the proliferation of nuclear weapons.

(3) The Threshold Test Ban Treaty was signed in 1974 and the Peaceful Nuclear Explosions Treaty was signed in 1976, and both have yet to be considered by the full Senate for its advice and consent to ratification.

(4) The entry into force of the Peaceful Nuclear Explosions Treaty and the Threshold Test Ban Treaty will ensure full implementation of significant new verification procedures and so make completion of a comprehensive test ban treaty more probable.

(5) A comprehensive test ban treaty must be adequately verifiable, and significant progress has been made in methods for detection of underground nuclear explosions by seismological and other means.

(6) At present, negotiations are not being pursued by the United States and the Soviet Union toward completion of a comprehensive test ban treaty.

(7) The past five administrations have supported the achievement of a comprehensive test ban treaty.

(b) It is the sense of the Senate that at the earliest possible date, the President should—

(1) request advice and consent of the Senate to ratification (with a report containing any plans the President may have to negotiate supplemental verification procedures, or if the President believes it necessary, any understanding or reservation on the subject of verification which should be attached to the treaty) of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties, signed in 1974 and 1976, respectively; and

(2) propose to the Soviet Union the immediate resumption of negotiations toward conclusion of a verifiable comprehensive test ban treaty.

(c) In accordance with international law, the United States shall have no obligation to comply with any bilateral arms control agreement with the Soviet Union that the Soviet Union is violating.

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# G. WAR POWERS, COLLECTIVE SECURITY, AND RELATED MATERIAL

CONTENTS


Page

1. War Powers ..... 727
   a. War Powers Resolution (Public Law 93–148) ..... 727
   b. National Emergencies ..... 733
      (1) National Emergencies Act, as amended (Public Law 94–412) . 733
      (2) Declaration of National Emergency by Reason of Certain Terrorist Attacks (Proclamation 7463) ..... 738
      (3) National Emergency Construction Authority (Executive Order 13235) ..... 739
   c. Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107–243) ..... 740
   d. Response to Terrorist Attacks of September 11, 2001 ..... 746
      (1) Authorization for Use of Military Force in Response to Terrorist Attacks of September 11, 2001 (Public Law 107–40) .... 746
      (2) Military Commissions Act of 2006 (Public Law 109–366) ..... 747
      (3) Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism (Military Order of November 13, 2001) (superseded) ..... 759
      (4) Trial of Alien Unlawful Enemy Combatants by Military Commission (Executive Order 13425) ..... 763
      (5) Interpretation of the Geneva Conventions Common Article 3 as Applied to a Program of Detention and Interrogation Operated by the Central Intelligence Agency (Executive Order 13440) ..... 764
   e. United States Policy Toward Haiti (Public Law 103–423) ..... 767
   f. Authorization for Use of Military Force Against Iraq (Public Law 102–1) ..... 770
   g. Authorization for Use of Military Force in Somalia (Public Law 103–139) (partial text) ..... 772
   h. U.S. Armed Forces in Somalia (Public Law 103–160) (partial text) ... 774
   i. United States Military Forces in Lebanon ..... 776
      (1) Multinational Force in Lebanon Resolution (Public Law 98–119) ..... 776
      (2) Agreement Between the United States and Lebanon Regarding U.S. Participation in the Multinational Force, Dated September 30, 1982 ..... 780
2. American Servicemembers' Protection Act of 2002 (Public Law 107–206) (partial text) ..... 783
3. Cuban Resolution (Public Law 87–733) ..... 795
4. Middle East Resolutions and Related Material ..... 796
   a. Resolution to Promote Peace and Stability in the Middle East (Public Law 85–7) ..... 796
   b. Multinational Force and Observers Participation Resolution (Public Law 97–132) ..... 798
   c. Multinational Force and Observers Reports (Executive Order 12361) 803
   d. Implementing the United States Proposal for the Early-Warning System in Sinai (Public Law 94–110) ..... 804
5. Tonkin Gulf Resolution (Public Law 88–408) (repealed) ..... 806
6. National Commitment (Senate Resolution 85, 91st Congress) ..... 808
7. North Atlantic Alliance ..... 809
   a. NATO Freedom Consolidation Act of 2007 (Public Law 110–17) ..... 809

b. European Security Act of 1998 (Public Law 105–277) (partial text) ... 816
c. NATO Enlargement Facilitation Act of 1996 (Public Law 104–208) (partial text) ..... 823
d. NATO Participation Act of 1994 (Public Law 103–447) (partial text) . 830
e. Reaffirming the United States Commitment to the North Atlantic Alliance (Public Law 96–9) ..... 835
f. Reaffirming the Unity of the North Atlantic Alliance Commitment (Public Law 95–287) ..... 836
8. Taiwan Relations ..... 837
a. Taiwan Relations Act (Public Law 96–8) ..... 837
b. Participation of Taiwan in the World Health Organization (Public Law 108–235) ..... 847
c. American Institute in Taiwan Facilities Enhancement Act (Public Law 106–212) ..... 850
d. Maintaining Unofficial Relations With the People of Taiwan (Executive Order 13014) ..... 852
9. Panama Canal ..... 855
a. Panama Canal Act of 1979 (Public Law 96–70) (partial text) ..... 855
b. Panama Canal Commission Compensation Fund Act of 1988 (Public Law 100–705) (partial text) ..... 918
c. Panama Canal—Report to Congress (Public Law 100–203) (partial text) ..... 921
d. Delegation of Panama Canal Functions (Executive Order 12215) ..... 922

# 1. War Powers

## a. War Powers Resolution

**Public Law 93–148 [H.J. Res. 542], 87 Stat. 555, passed over President's veto November 7, 1973**

JOINT RESOLUTION Concerning the war powers of Congress and the President.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

SECTION 1. This joint resolution may be cited as the "War Powers Resolution".

PURPOSE AND POLICY

SEC. 2.[1] (a) It is the purpose of this joint resolution to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations.

(b) Under article I, section 8, of the Constitution, it is specifically provided that the Congress shall have the power to make all laws necessary and proper for carrying into execution, not only its own powers but also all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof.

(c) The constitutional powers of the President as Commander-in-Chief to introduce United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, are exercised only pursuant to (1) a declaration of war, (2) specific statutory authorization, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces.

[1] 50 U.S.C. 1541. See Authorization for Use of Military Force Against Iraq Resolution (Public Law 102–1; 105 Stat. 3; 50 U.S.C. 1541 note), page 767 of this volume. See also the congressional findings and conditional authorization for use of U.S. military force in Somalia (sec. 8151 of Public Law 103–139; 107 Stat. 1475; 50 U.S.C. 1541 note), page 769 of this volume, and the sense of Congress and a statement of congressional policy on U.S. armed forces in Somalia (sec. 1512 of Public Law 103–160; 107 Stat. 1840; 50 U.S.C. 1541 note), page 771 of this volume. See also the joint resolution regarding U.S. policy toward Haiti (Public Law 103–423; 108 Stat. 4358; 50 U.S.C. 1541 note), page 764 of this volume, and a limitation on deployment of armed forces in Haiti during fiscal year 2000 (sec. 1232 of Public Law 106–65; 113 Stat. 788; 50 U.S.C. 1541 note), page 764, note 1 of this volume. See also Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107–243; 116 Stat. 1498; 50 U.S.C. 1541 note), page 737 of this volume. See also Authorization for Use of Military Force against those responsible for attacks launched against United States on September 11, 2001 (Public Law 107–40; 115 Stat. 224; 50 U.S.C. 1541 note), page 743 of this volume.

CONSULTATION

SEC. 3.[2] The President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and after every such introduction shall consult regularly with the Congress until United States Armed Forces are no longer engaged in hostilities or have been removed from such situations.

REPORTING

SEC. 4.[3] (a) In the absence of a declaration of war, in any case in which United States Armed Forces are introduced—

(1) into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances;

(2) into the territory, airspace or waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces; or

(3) in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation;

the President shall submit within 48 hours to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth—

(A) the circumstances necessitating the introduction of United States Armed Forces;

(B) the constitutional and legislative authority under which such introduction took place; and

(C) the estimated scope and duration of the hostilities or involvement.

(b) The President shall provide such other information as the Congress may request in the fulfillment of its constitutional responsibilities with respect to committing the Nation to war and to the use of United States Armed Forces abroad.

(c) Whenever United States Armed Forces are introduced into hostilities or into any situation described in subsection (a) of this section, the President shall, so long as such armed forces continue to be engaged in such hostilities or situation, report to the Congress periodically on the status of such hostilities or situation as well as on the scope and duration of such hostilities or situation, but in no event shall he report to the Congress less often than once every six months.

[2] 50 U.S.C. 1542.
[3] 50 U.S.C. 1543.

CONGRESSIONAL ACTION [4]

SEC. 5.[5] (a) Each report submitted pursuant to section 4(a)(1) shall be transmitted to the Speaker of the House of Representatives and to the President pro tempore of the Senate on the same calendar day. Each report so transmitted shall be referred to the Committee on Foreign Affairs [6] of the House of Representatives and to the Committee on Foreign Relations of the Senate for appropriate action. If, when the report is transmitted, the Congress has adjourned sine die or has adjourned for any period in excess of three calendar days, the Speaker of the House of Representatives and the President pro tempore of the Senate, if they deem it advisable (or if petitioned by at least 30 percent of the membership of their respective Houses) shall jointly request the President to convene Congress in order that it may consider the report and take appropriate action pursuant to this section.

(b) Within sixty calendar days after a report is submitted or is required to be submitted pursuant to section 4(a)(1), whichever is earlier, the President shall terminate any use of United States Armed Forces with respect to which such report was submitted (or required to be submitted), unless the Congress (1) has declared war or has enacted a specific authorization for such use of United States Armed Forces, (2) has extended by law such sixty-day period, or (3) is physically unable to meet as a result of an armed attack upon the United States. Such sixty-day period shall be extended for not more than an additional thirty days if the President determines and certifies to the Congress in writing that unavoidable military necessity respecting the safety of United States Armed Forces requires the continued use of such armed forces in the course of bringing about a prompt removal of such forces.

(c) Notwithstanding subsection (b), at any time that United States Armed Forces are engaged in hostilities outside the territory of the United States, its possessions and territories without a declaration of war or specific statutory authorization, such forces shall be removed by the President if the Congress so directs by concurrent resolution.

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[4] Consider also sec. 1013 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98–164; 97 Stat. 1062; 50 U.S.C. 1546a) which provides:

"EXPEDITED PROCEDURES FOR CERTAIN JOINT RESOLUTION AND BILLS

"SEC. 1013. Any joint resolution or bill introduced in either House which requires the removal of United States Armed Forces engaged in hostilities outside the territory of the United States, its possessions and territories, without a declaration of war or specific statutory authorization shall be considered in accordance with the procedures of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976, except that any such resolution or bill shall be amendable. If such a joint resolution or bill should be vetoed by the President, the time for debate in consideration of the veto message on such measure shall be limited to twenty hours in the Senate and in the House shall be determined in accordance with the Rules of the House.".

For text of sec. 601(b) of the International Security Assistance and Arms Export Control Act of 1976, see *Legislation on Foreign Relations Through 2008*, vol. I–A.

[5] 50 U.S.C. 1544.

[6] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

CONGRESSIONAL PRIORITY PROCEDURES FOR JOINT RESOLUTION OR BILL[4]

SEC. 6.[7] (a) Any joint resolution or bill introduced pursuant to section 5(b) at least thirty calendar days before the expiration of the sixty-day period specified in such section, shall be referred to the Committee on Foreign Affairs[6] of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and such committee shall report one such joint resolution or bill, together with its recommendations, not later than twenty-four calendar days before the expiration of the sixty-day period specified in such section, unless such House shall otherwise determine by the yeas and nays.

(b) Any joint resolution or bill so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents), and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a joint resolution or bill passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out not later than fourteen calendar days before the expiration of the sixty-day period specified in section 5(b). The joint resolution or bill so reported shall become the pending business of the House in question and shall be voted on within three calendar days after it has been reported, unless such House shall otherwise determine by yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution or bill passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such resolution or bill not later than four calendar days before the expiration of the sixty-day period specified in section 5(b). In the event the conferees are unable to agree within 48 hours, they shall report back to their respective House in disagreement. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than the expiration of such sixty-day period.

CONGRESSIONAL PRIORITY PROCEDURES FOR CONCURRENT RESOLUTION

SEC. 7.[8] (a) Any concurrent resolution introduced pursuant to section 5(c) shall be referred to the Committee on Foreign Affairs[6] of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and one such concurrent resolution shall be reported out by such committee together with its recommendations within fifteen calendar days, unless such House shall otherwise determine by the yeas and nays.

(b) Any concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the

[7] 50 U.S.C. 1545.
[8] 50 U.S.C. 1546.

time for debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a concurrent resolution passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out by such committee together with its recommendations within fifteen calendar days and shall thereupon become the pending business of such House and shall be voted upon within three calendar days, unless such House shall otherwise determine by yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a concurrent resolution passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such concurrent resolution within six calendar days after the legislation is referred to the committee of conference. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed. In the event the conferees are unable to agree within 48 hours, they shall report back to their respective Houses in disagreement.

INTERPRETATION OF JOINT RESOLUTION

SEC. 8.[9] (a) Authority to introduce United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances shall not be inferred—

(1) from any provision of law (whether or not in effect before the date of the enactment of this joint resolution), including any provision contained in any appropriation Act, unless such provision specifically authorizes the introduction of United States Armed Forces into hostilities or into such situations and states that it is intended to constitute specific statutory authorization within the meaning of this joint resolution; or

(2) from any treaty heretofore or hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of United States Armed Forces into hostilities or into such situations and stating that it is intended to constitute specific statutory authorization within the meaning of this joint resolution.

(b) Nothing in this joint resolution shall be construed to require any further specific statutory authorization to permit members of United States Armed Forces to participate jointly with members of the armed forces of one or more foreign countries in the headquarters operations of high-level military commands which were established prior to the date of enactment of this joint resolution and pursuant to the United Nations Charter or any treaty ratified by the United States prior to such date.

(c) For purposes of this joint resolution, the term "introduction of United States Armed Forces" includes the assignment of members of such armed forces to command, coordinate, participate in the

[9] 50 U.S.C. 1547.

movement of, or accompany the regular or irregular military forces of any foreign country or government when such military forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities.

(d) Nothing in this joint resolution—

(1) is intended to alter the constitutional authority of the Congress or of the President, or the provisions of existing treaties; or

(2) shall be construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this joint resolution.

SEPARABILITY CLAUSE

SEC. 9.[10] If any provision of this joint resolution or the application thereof to any person or circumstances is held invalid, the remainder of the joint resolution and the application of such provision to any other person or circumstance shall not be affected thereby.

EFFECTIVE DATE

SEC. 10. This joint resolution shall take effect on the date of its enactment.

[10] 50 U.S.C. 1548.

## b. National Emergencies

### (1) National Emergencies Act, as amended [1]

**Public Law 94–412 [H.R. 3884], 90 Stat. 1255, approved September 14, 1976; as amended by Public Law 95–223 [International Emergency Economic Powers Act; H.R. 7738], 91 Stat. 1625, approved December 28, 1977; Public Law 96–513 [Defense Officer Personnel Management Act; S. 1918], 94 Stat. 2835, approved December 12, 1980; Public Law 99–93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 448, approved August 16, 1985; Public Law 105–362 [Federal Reports Elimination Act of 1998; S. 1364], 112 Stat. 3280, approved November 10, 1998; and Public Law 107–314 [Bob Stump National Defense Authorization Act for Fiscal Year 2003; H.R. 4546], 116 Stat. 2458, approved December 2, 2002**

AN ACT To terminate certain authorities with respect to national emergencies still in effect, and to provide for orderly implementation and termination of future national emergencies.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "National Emergencies Act".

TITLE I—TERMINATING EXISTING DECLARED EMERGENCIES

SEC. 101.[2] (a) All powers and authorities possessed by the President, any other officer or employee of the Federal Government, or any executive agency, as defined in section 105 of title 5, United States Code, as a result of the existence of this Act are terminated two years from the date of such enactment. Such termination shall not affect—

(1) any action taken or proceeding pending not finally concluded or determined on such date;

(2) any action or proceeding based on any act committed prior to such date; or

(3) any rights or duties that matured or penalties that were incurred prior to such date.

(b) For the purpose of this section, the words "any national emergency in effect" means a general declaration of emergency made by the President.

TITLE II—DECLARATIONS OF FUTURE NATIONAL EMERGENCIES

SEC. 201.[3] (a) With respect to Acts of Congress authorizing the exercise, during the period of a national emergency, of any special or extraordinary power, the President is authorized to declare such

[1] See also *Legislation on Foreign Relations Through 2005*, vol. III, sec. J, on International Economic Sanctions.
[2] 50 U.S.C. 1601.
[3] 50 U.S.C. 1621.

national emergency. Such proclamation shall immediately be transmitted to the Congress and published in the Federal Register.

(b) Any provisions of law conferring powers and authorities to be exercised during a national emergency shall be effective and remain in effect (1) only when the President (in accordance with subsection (a) of this section), specifically declares a national emergency, and (2) only in accordance with this Act. No law enacted after the date of enactment of this Act shall supersede this title unless it does so in specific terms, referring to this title, and declaring that the new law supersedes the provisions of this title.

SEC. 202.[4] (a) Any national emergency declared by the President in accordance with this title shall terminate if—

(1) there is enacted into law a joint resolution terminating the emergency; or

(2) the President issues a proclamation terminating the emergency.

Any national emergency declared by the President shall be terminated on the date specified in any joint resolution referred to in clause (1) or on the date specified in a proclamation by the President terminating the emergency as provided in clause (2) of this subsection, whichever date is earlier, and any powers or authorities exercised by reason of said emergency shall cease to be exercised after such specified date, except that such termination shall not affect—

(A) any action taken or proceeding pending not finally concluded or determined on such date;

(B) any action or proceeding based on any act committed prior to such date; or

(C) any rights or duties that matured or penalties that were incurred prior to such date.

(b) Not later than six months after a national emergency is declared, and not later than the end of each six-month period thereafter that such emergency continues, each House of Congress shall meet to consider a vote on a joint resolution to determine whether that emergency shall be terminated.

(c)(1) A joint resolution to terminate a national emergency declared by the President shall be referred to the appropriate committee of the House of Representatives or the Senate, as the case may be. One such joint resolution shall be reported out by such committee together with its recommendations within fifteen calendar days after the day on which such resolution is referred to such committee, unless such House shall otherwise determine by the yeas and nays.

(2) Any joint resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days after the day on which such resolution is reported, unless such House shall otherwise determine by yeas and nays.

[4] 50 U.S.C. 1622. Sec. 801 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93; 99 Stat. 448) added references to a "joint" resolution instead of a "concurrent" resolution in this section.

(3) Such a joint resolution passed by one House shall be referred to the appropriate committee of the other House and shall be reported out by such committee together with its recommendations within fifteen calendar days after the day on which such resolution is referred to such committee and shall thereupon become the pending business of such House and shall be voted upon within three calendar days after the day on which such resolution is reported, unless such House shall otherwise determine by yeas and nays.

(4) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such joint resolution within six calendar days after the day on which managers on the part of the Senate and the House have been appointed. Notwithstanding any rule in either House concerning the printing of conference reports or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed in the House in which such report is filed first. In the event the conferees are unable to agree within forty-eight hours, they shall report back to their respective houses in disagreement.

(5) Paragraphs (1)–(4) of this subsection, subsection (b) of this section, and section 502(b) of this Act are enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; with

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(d) Any national emergency declared by the President in accordance with this title, and not otherwise previously terminated, shall terminate on the anniversary of the declaration of that emergency if, within the ninety-day period prior to each anniversary date, the President does not publish in the Federal Register and transmit to the Congress a notice stating that such emergency is to continue in effect after such anniversary.

## TITLE III—EXERCISE OF EMERGENCY POWERS AND AUTHORITIES

SEC. 301.[5] When the President declares a national emergency, no powers or authorities made available by statute for use in the event of an emergency shall be exercised unless and until the President specifies the provisions of law under which he proposes that he, or other officers will act. Such specification may be made either in the declaration of a national emergency, or by one or more

[5] 50 U.S.C. 1631.

contemporaneous or subsequent Executive orders published in the Federal Register and transmitted to the Congress.

## TITLE IV—ACCOUNTABILITY AND REPORTING REQUIREMENTS OF THE PRESIDENT

SEC. 401.[6] (a) When the President declares a national emergency, or Congress declares war, the President shall be responsible for maintaining a file and index of all significant orders of the President, including Executive orders and proclamations, and each Executive agency shall maintain a file and index of all rules and regulations, issued during such emergency or war issued pursuant to such declarations.

(b) All such significant orders of the President, including Executive orders, and such rules and regulations shall be transmitted to the Congress promptly under means to assure confidentiality where appropriate.

(c) When the President declares a national emergency or Congress declares war, the President shall transmit to Congress, within ninety days after the end of each six-month period after such declarations, a report on the total expenditures incurred by the United States Government during such six-month period which are directly attributable to the exercise of powers and authorities conferred by such declaration. Not later than ninety days after the termination of each such emergency or war, the President shall transmit a final report on all such expenditures.

## TITLE V—REPEAL AND CONTINUATION OF CERTAIN EMERGENCY POWER AND OTHER STATUTES

SEC. 501. (a) Section 349(a) of the Immigration and Nationality Act (8 U.S.C. 148(a)) is amended—

(1) at the end of paragraph (9), by striking out "; or" and inserting in lieu thereof a period; and

(2) by striking out paragraph (10).

(b) Section 2667(b) of title 10 of the United States Code is amended—

(1) by inserting "and" at the end of paragraph (3);

(2) by striking out paragraph (4); and

(3) by redesignating paragraph (5) and (4).

(c) The joint resolution entitled "Joint resolution to authorize the temporary continuation of regulation of consumer credit", approved August 8, 1947 (12 U.S.C. 249), is repealed.

(d) Section 5(m) of the Tennessee Valley Authority Act of 1933 as amended (16 U.S.C. 831d(m)) is repealed.

(e) Section 1383 of title 18, United States Code, is repealed.

(f) Section 6 of the Act entitled "An Act to amend the Public Health Service Act is regard to certain matters of personnel and administration, and for other purposes", approved February 28, 1948, is amended by striking out subsections (b), (c), (d), (e), and (f) (42 U.S.C. 211b).

(g) Section 9 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1742) is repealed.

[6] 50 U.S.C. 1641.

(h) This section shall not affect—

(1) any action taken or proceeding pending not finally concluded or determined at the time of repeal;

(2) any action or proceeding based on any act committed prior to repeal; or

(3) any rights or duties that matured or penalties that were incurred prior to repeal;

SEC. 502.[7] (a) The provisions of this Act shall not apply to the following provisions of law, the powers and authorities conferred thereby, and actions taken thereunder:

(1) Act of June 30, 1949 (41 U.S.C. 252);[8]

(2)[8] Section 3477 of the Revised Statutes, as amended (31 U.S.C. 203);

(3)[8] Section 3737 of the Revised Statutes, as amended (41 U.S.C. 15);

(4)[8] Public Law 85–804 (Act of Aug. 28, 1958, 72 Stat. 972; 50 U.S.C. 1431 et seq.);[9]

(5)[8] Section 2304(a)(1) of title 10, United States Code;[10]

(b) Each committee of the House of Representatives and the Senate having jurisdiction with respect to any provision of law referred to in subsection (a) of this section shall make a complete study and investigation concerning that provision of law and make a report, including any recommendations and proposed revisions such committee may have, to its respective House of Congress within two hundred and seventy days after the date of enactment of this Act.

[7] 50 U.S.C. 1651.

[8] Sec. 101(d) of Public Law 95–223 (91 Stat. 1625) repealed the original para. (1), which listed sec. 5(b) of the Trading With the Enemy Act. Sec. 1062(o)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2652) struck out the original para. (2), which listed an "Act of April 28, 1942 (40 U.S.C. 278b)". Sec. 1062(o)(1) then redesignated the remaining paras. (3) through (7) as paras. (1) through (5).

[9] Sec. 901(r)(2) of Public Law 105–362 (112 Stat. 3291) struck out "1431–1435" and inserted in lieu thereof "1431 et seq.".

[10] Sec. 507(b) of the Defense Officer Personnel Management Act (Public Law 96–513; 94 Stat. 2919) struck out para. (8) from sec. 502(a), which had listed secs. 3313, 6386(c), and 8313 of 10 U.S.C. Sec. 502(a) originally included eight paragraphs.

## (2) Declaration of National Emergency by Reason of Certain Terrorist Attacks [1]

**Proclamation 7463 of September 14, 2001, 66 F.R. 48199, 50 U.S.C. 1621 note**

### By the President of the United States of America

### A Proclamation

A national emergency exists by reason of the terrorist attacks at the World Trade Center, New York, New York, and the Pentagon, and the continuing and immediate threat of further attacks on the United States.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me as President by the Constitution and the laws of the United States, I hereby declare that the national emergency has existed since September 11, 2001, and, pursuant to the National Emergencies Act (50 U.S.C. 1601 *et seq.*), I intend to utilize the following statutes: sections 123, 123a, 527, 2201(c), 12006, and 12302 of title 10, United States Code, and sections 331, 359, and 367 of title 14, United States Code.

This proclamation immediately shall be published in the Federal Register or disseminated through the Emergency Federal Register, and transmitted to the Congress.

This proclamation is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of September, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.

[1] The President continued this national emergency in a Notice of September 12, 2002 (67 F.R. 58317; September 13, 2002); a Notice of September 10, 2003 (68 F.R. 53665; September 12, 2003); a Notice of September 10, 2004 (69 F.R. 55313; September 13, 2004); a Notice of September 8, 2005 (70 F.R. 54229; September 13, 2005); a Notice of September 5, 2006 (71 F.R. 52733; September 7, 2006); a Notice of September 12, 2007 (72 F.R. 52465; September 13, 2007); and a Notice of August 28, 2008 (73 F.R. 51211; September 2, 2008).

### (3) National Emergency Construction Authority

**Executive Order 13235, 66 F.R. 58343, 10 U.S.C. 2808 note**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3, United States Code, I declared a national emergency that requires the use of the Armed Forces of the United States, by Proclamation 7463 of September 14, 2001, because of the terrorist attacks on the World Trade Center and the Pentagon, and because of the continuing and immediate threat to the national security of the United States of further terrorist attacks. To provide additional authority to the Department of Defense to respond to that threat, and in accordance with section 301 of the National Emergencies Act (50 U.S.C. 1631), I hereby order that the emergency construction authority at 10 U.S.C. 2808 is invoked and made available in accordance with its terms to the Secretary of Defense and, at the discretion of the Secretary of Defense, to the Secretaries of the military departments.

## c. Authorization for Use of Military Force Against Iraq Resolution of 2002 [1]

**Public Law 107–243 [H.J. Res. 114], 116 Stat. 1498, approved October 16, 2002**

JOINT RESOLUTION To authorize the use of United States Armed Forces against Iraq.

Whereas in 1990 in response to Iraq's war of aggression against and illegal occupation of Kuwait, the United States forged a coalition of nations to liberate Kuwait and its people in order to defend the national security of the United States and enforce United Nations Security Council resolutions relating to Iraq;

Whereas after the liberation of Kuwait in 1991, Iraq entered into a United Nations sponsored cease-fire agreement pursuant to which Iraq unequivocally agreed, among other things, to eliminate its nuclear, biological, and chemical weapons programs and the means to deliver and develop them, and to end its support for international terrorism;

Whereas the efforts of international weapons inspectors, United States intelligence agencies, and Iraqi defectors led to the discovery that Iraq had large stockpiles of chemical weapons and a large scale biological weapons program, and that Iraq had an advanced nuclear weapons development program that was much closer to producing a nuclear weapon than intelligence reporting had previously indicated;

Whereas Iraq, in direct and flagrant violation of the cease-fire, attempted to thwart the efforts of weapons inspectors to identify and destroy Iraq's weapons of mass destruction stockpiles and development capabilities, which finally resulted in the withdrawal of inspectors from Iraq on October 31, 1998;

Whereas in Public Law 105–235 (August 14, 1998), Congress concluded that Iraq's continuing weapons of mass destruction programs threatened vital United States interests and international peace and security, declared Iraq to be in "material and unacceptable breach of its international obligations" and urged the President "to take appropriate action, in accordance with the Constitution and relevant laws of the United States, to bring Iraq into compliance with its international obligations";

Whereas Iraq both poses a continuing threat to the national security of the United States and international peace and security in the Persian Gulf region and remains in material and unacceptable breach of its international obligations by, among other things, continuing to possess and develop a significant chemical and biological weapons capability, actively seeking a nuclear weapons capability, and supporting and harboring terrorist organizations;

[1] 50 U.S.C. 1541 note.

Whereas Iraq persists in violating resolution of the United Nations Security Council by continuing to engage in brutal repression of its civilian population thereby threatening international peace and security in the region, by refusing to release, repatriate, or account for non-Iraqi citizens wrongfully detained by Iraq, including an American serviceman, and by failing to return property wrongfully seized by Iraq from Kuwait;

Whereas the current Iraqi regime has demonstrated its capability and willingness to use weapons of mass destruction against other nations and its own people;

Whereas the current Iraqi regime has demonstrated its continuing hostility toward, and willingness to attack, the United States, including by attempting in 1993 to assassinate former President Bush and by firing on many thousands of occasions on United States and Coalition Armed Forces engaged in enforcing the resolutions of the United Nations Security Council;

Whereas members of al Qaida, an organization bearing responsibility for attacks on the United States, its citizens, and interests, including the attacks that occurred on September 11, 2001, are known to be in Iraq;

Whereas Iraq continues to aid and harbor other international terrorist organizations, including organizations that threaten the lives and safety of United States citizens;

Whereas the attacks on the United States of September 11, 2001, underscored the gravity of the threat posed by the acquisition of weapons of mass destruction by international terrorist organizations;

Whereas Iraq's demonstrated capability and willingness to use weapons of mass destruction, the risk that the current Iraqi regime will either employ those weapons to launch a surprise attack against the United States or its Armed Forces or provide them to international terrorists who would do so, and the extreme magnitude of harm that would result to the United States and its citizens from such an attack, combine to justify action by the United States to defend itself;

Whereas United Nations Security Council Resolution 678 (1990) authorizes the use of all necessary means to enforce United Nations Security Council Resolution 660 (1990) and subsequent relevant resolutions and to compel Iraq to cease certain activities that threaten international peace and security, including the development of weapons of mass destruction and refusal or obstruction of United Nations weapons inspections in violation of United Nations Security Council Resolution 687 (1991), repression of its civilian population in violation of United Nations Security Council Resolution 688 (1991), and threatening its neighbors or United Nations operations in Iraq in violation of United Nations Security Council Resolution 949 (1994);

Whereas in the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102–1), Congress has authorized the President "to use United States Armed Forces pursuant to United Nations Security Council Resolution 678 (1990) in order to achieve implementation of Security Council Resolution 660, 661, 662, 664, 665, 666, 667, 669, 670, 674, and 677";

Whereas in December 1991, Congress expressed its sense that it "supports the use of all necessary means to achieve the goals of United Nations Security Council Resolution 687 as being consistent with the Authorization of Use of Military Force Against Iraq Resolution (Public Law 102–1)," that Iraq's repression of its civilian population violates United Nations Security Council Resolution 688 and "constitutes a continuing threat to the peace, security, and stability of the Persian Gulf region," and that Congress, "supports the use of all necessary means to achieve the goals of United Nations Security Council Resolution 688";

Whereas the Iraq Liberation Act of 1998 (Public Law 105–338) expressed the sense of Congress that it should be the policy of the United States to support efforts to remove from power the current Iraqi regime and promote the emergence of a democratic government to replace that regime;

Whereas on September 12, 2002, President Bush committed the United States to "work with the United Nations Security Council to meet our common challenge" posed by Iraq and to "work for the necessary resolutions," while also making clear that "the Security Council resolutions will be enforced, and the just demands of peace and security will be met, or action will be unavoidable";

Whereas the United States is determined to prosecute the war on terrorism and Iraq's ongoing support for international terrorist groups combined with its development of weapons of mass destruction in direct violation of its obligations under the 1991 cease-fire and other United Nations Security Council resolutions make clear that it is in the national security interests of the United States and in furtherance of the war on terrorism that all relevant United Nations Security Council resolutions be enforced, including through the use of force if necessary;

Whereas Congress has taken steps to pursue vigorously the war on terrorism through the provision of authorities and funding requested by the President to take the necessary actions against international terrorists and terrorist organizations, including those nations, organizations, or persons who planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such persons or organizations;

Whereas the President and Congress are determined to continue to take all appropriate actions against international terrorists and terrorist organizations, including those nations, organizations, or persons who planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such persons or organizations;

Whereas the President has authority under the Constitution to take action in order to deter and prevent acts of international terrorism against the United States, as Congress recognized in the joint resolution on Authorization for Use of Military Force (Public Law 107–40); and

Whereas it is in the national security interests of the United States to restore international peace and security to the Persian Gulf region: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This joint resolution may be cited as the "Authorization for Use of Military Force Against Iraq Resolution of 2002".

**SEC. 2. SUPPORT FOR UNITED STATES DIPLOMATIC EFFORTS.**

The Congress of the United States supports the efforts by the President to—

(1) strictly enforce through the United Nations Security Council all relevant Security Council resolutions regarding Iraq and encourages him in those efforts; and

(2) obtain prompt and decisive action by the Security Council to ensure that Iraq abandons its strategy of delay, evasion and noncompliance and promptly and strictly complies with all relevant Security Council resolutions regarding Iraq.

**SEC. 3. AUTHORIZATION FOR USE OF UNITED STATES ARMED FORCES.**

(a) AUTHORIZATION.—The President is authorized to use the Armed Forces of the United States as he determines to be necessary and appropriate in order to—

(1) defend the national security of the United States against the continuing threat posed by Iraq; and

(2) enforce all relevant United Nations Security Council resolutions regarding Iraq.

(b) PRESIDENTIAL DETERMINATION.—In connection with the exercise of the authority granted in subsection (a) to use force the President shall, prior to such exercise or as soon thereafter as may be feasible, but no later than 48 hours after exercising such authority, make available to the Speaker of the House of Representatives and the President pro tempore of the Senate his determination that—

(1) reliance by the United States on further diplomatic or other peaceful means alone either (A) will not adequately protect the national security of the United States against the continuing threat posed by Iraq or (B) is not likely to lead to enforcement of all relevant United Nations Security Council resolutions regarding Iraq; and

(2) acting pursuant to this joint resolution is consistent with the United States and other countries continuing to take the necessary actions against international terrorist and terrorist organizations, including those nations, organizations, or persons who planned, authorized, committed or aided the terrorist attacks that occurred on September 11, 2001.

(c) WAR POWERS RESOLUTION REQUIREMENTS.—

(1) SPECIFIC STATUTORY AUTHORIZATION.—Consistent with section 8(a)(1) of the War Powers Resolution, the Congress declares that this section is intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution.

(2) APPLICABILITY OF OTHER REQUIREMENTS.—Nothing in this joint resolution supersedes any requirement of the War Powers Resolution.

**SEC. 4. REPORTS TO CONGRESS.**[2]

(a) REPORTS.—The President[3] shall, at least once every 60 days, submit to the Congress a report on matters relevant to this joint resolution, including actions taken pursuant to the exercise of authority granted in section 3 and the status of planning for efforts that are expected to be required after such actions are completed, including those actions described in section 7 of the Iraq Liberation Act of 1998 (Public Law 105–338).

(b) SINGLE CONSOLIDATED REPORT.—To the extent that the submission of any report described in subsection (a) coincides with the submission of any other report on matters relevant to this joint resolution otherwise required to be submitted to Congress pursuant to the reporting requirements of the War Powers Resolution (Public Law 93–148), all such reports may be submitted as a single consolidated report to the Congress.(c) RULE OF CONSTRUCTION.—To the extent that the information required by section 3 of the Authorization for Use of Military Force Against Iraq Resolution (Public Law

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[2] The United States Policy in Iraq Act (sec. 1227 of the National Defense Authorization Act for Fiscal Year 2006; Public Law 109–163; 119 Stat. 3465; 50 U.S.C. 1541 note) also requires the President to report to Congress on operations in Iraq. Sec. 1227(c) of that Act provides as follows:

"(c) REPORTS TO CONGRESS ON UNITED STATES POLICY AND MILITARY OPERATION IN IRAQ.—Not later than 90 days after the date of the enactment of this Act, and every three months thereafter until all United States combat brigades have redeployed from Iraq, the President shall submit to Congress a report on United States policy and military operations in Iraq. To the maximum extent practicable, the report required in (c) shall be unclassified, with a classified annex if necessary. Each report shall include to the extent practical, the following information:

"(1) The current military mission and the diplomatic, political, economic, and military measures that are being or have been undertaken to successfully complete or support that mission, including:

"(A) Efforts to convince Iraq's main communities to make the compromises necessary for a broad-based and sustainable political settlement.

"(B) Engaging the international community and the region in efforts to stabilize Iraq and to forge a broadbased and sustainable political settlement.

"(C) Strengthening the capacity of Iraq's government ministries.

"(D) Accelerating the delivery of basic services.

"(E) Securing the delivery of pledged economic assistance from the international community and additional pledges of assistance.

"(F) Training Iraqi security forces and transferring additional security responsibilities to those forces and the government of Iraq.

"(2) Whether the Iraqis have made the compromises necessary to achieve the broad-based and sustainable political settlement that is essential for defeating the insurgency in Iraq.

"(3) Any specific conditions included in the April 2005 Multi-National Forces-Iraq campaign action plan (referred to in United States Government Accountability Office October 2005 report on Rebuilding Iraq: DOD Reports Should Link Economic, Governance, and Security Indicators to Conditions for Stabilizing Iraq), and any subsequent updates to that campaign plan, that must be met in order to provide for the transition of additional security responsibility to Iraqi security forces.

"(4) To the extent that these conditions are not covered under paragraph (3), the following should also be addressed:

"(A) The number of battalions of the Iraqi Armed Forces that must be able to operate independently or to take the lead in counterinsurgency operations and the defense of Iraq's territory.

"(B) The number of Iraqi special police units that must be able to operate independently or to take the lead in maintaining law and order and fighting the insurgency.

"(C) The number of regular police that must be trained and equipped to maintain law and order.

"(D) The ability of Iraq's Federal ministries and provincial and local governments to independently sustain, direct, and coordinate Iraq's security forces.

"(5) The criteria to be used to evaluate progress toward meeting such conditions.

"(6) A plan for meeting such conditions, an assessment of the extent to which such conditions have been met, information regarding variables that could alter that plan, and the reasons for any subsequent changes to that plan.".

In a memorandum of April 6, 2006 (71 F.R. 19427; April 14, 2006; 50 U.S.C. 1541 note), the President delegated the reporting obligation in sec. 1227(c) to the Secretary of State.

[3] In a memorandum of July 2, 2004 (69 F.R. 43723; July 21, 2004; 50 U.S.C. 1541 note), the President delegated the reporting obligation in sec. 4 to the Secretary of State.

102–1) is included in the report required by this section, such report shall be considered as meeting the requirements of section 3 of such resolution.

## d. Response to Terrorist Attacks of September 11, 2001

### (1) Authorization for Use of Military Force in Response to Terrorist Attacks of September 11, 2001 [1]

**Public Law 107–40 [S.J. Res. 23], 115 Stat. 224, approved September 18, 2001**

JOINT RESOLUTION To authorize the use of United States Armed Forces against those responsible for the recent attacks launched against the United States.

Whereas, on September 11, 2001, acts of treacherous violence were committed against the United States and its citizens; and Whereas, such acts render it both necessary and appropriate that the United States exercise its rights to self-defense and to protect United States citizens both at home and abroad; and

Whereas, in light of the threat to the national security and foreign policy of the United States posed by these grave acts of violence; and

Whereas, such acts continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States; and

Whereas, the President has authority under the Constitution to take action to deter and prevent acts of international terrorism against the United States: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This joint resolution may be cited as the "Authorization for Use of Military Force".

**SEC. 2. AUTHORIZATION FOR USE OF UNITED STATES ARMED FORCES.**

(a) IN GENERAL.—That the President is authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.

(b) WAR POWERS RESOLUTION REQUIREMENTS.—

(1) SPECIFIC STATUTORY AUTHORIZATION.—Consistent with section 8(a)(1) of the War Powers Resolution, the Congress declares that this section is intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution.

(2) APPLICABILITY OF OTHER REQUIREMENTS.—Nothing in this resolution supercedes any requirement of the War Powers Resolution.

[1] 50 U.S.C. 1541 note.

## (2) Military Commissions Act of 2006

**Public Law 109–366 [S. 3930], 120 Stat. 2600, approved October 17, 2006**

AN ACT To authorize trial by military commission for violations of the law of war, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1.[1] SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Military Commissions Act of 2006".

(b) * * *

**SEC. 2.[1] CONSTRUCTION OF PRESIDENTIAL AUTHORITY TO ESTABLISH MILITARY COMMISSIONS.**

The authority to establish military commissions under chapter 47A of title 10, United States Code, as added by section 3(a), may not be construed to alter or limit the authority of the President under the Constitution of the United States and laws of the United States to establish military commissions for areas declared to be under martial law or in occupied territories should circumstances so require.

**SEC. 3. MILITARY COMMISSIONS.**

(a) MILITARY COMMISSIONS.—

(1) IN GENERAL.—Subtitle A of title 10, United States Code, is amended by inserting after chapter 47 the following new chapter:

### "CHAPTER 47A—MILITARY COMMISSIONS

* * * * * * *

### "SUBCHAPTER I—GENERAL PROVISIONS

* * * * * * *

### "§ 948a. Definitions

"In this chapter:

"(1) UNLAWFUL ENEMY COMBATANT.—(A) The term 'unlawful enemy combatant' means—

"(i) a person who has engaged in hostilities or who has purposefully and materially supported hostilities against the United States or its co-belligerents who is not a lawful enemy combatant (including a person who is part of the Taliban, al Qaeda, or associated forces); or

"(ii) a person who, before, on, or after the date of the enactment of the Military Commissions Act of 2006, has been

[1] 10 U.S.C. 948a note.

determined to be an unlawful enemy combatant by a Combatant Status Review Tribunal or another competent tribunal established under the authority of the President or the Secretary of Defense.

"(B) CO-BELLIGERENT.—In this paragraph, the term 'cobelligerent', with respect to the United States, means any State or armed force joining and directly engaged with the United States in hostilities or directly supporting hostilities against a common enemy.

"(2) LAWFUL ENEMY COMBATANT.—The term 'lawful enemy combatant' means a person who is—

"(A) a member of the regular forces of a State party engaged in hostilities against the United States;

"(B) a member of a militia, volunteer corps, or organized resistance movement belonging to a State party engaged in such hostilities, which are under responsible command, wear a fixed distinctive sign recognizable at a distance, carry their arms openly, and abide by the law of war; or

"(C) a member of a regular armed force who professes allegiance to a government engaged in such hostilities, but not recognized by the United States.

"(3) ALIEN.—The term 'alien' means a person who is not a citizen of the United States.

"(4) CLASSIFIED INFORMATION.—The term 'classified information' means the following:

"(A) Any information or material that has been determined by the United States Government pursuant to statute, Executive order, or regulation to require protection against unauthorized disclosure for reasons of national security.

"(B) Any restricted data, as that term is defined in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

"(5) GENEVA CONVENTIONS.—The term 'Geneva Conventions' means the international conventions signed at Geneva on August 12, 1949.

**"§ 948b. Military commissions generally**

"(a) PURPOSE.—This chapter establishes procedures governing the use of military commissions to try alien unlawful enemy combatants engaged in hostilities against the United States for violations of the law of war and other offenses triable by military commission.

"(b) AUTHORITY FOR MILITARY COMMISSIONS UNDER THIS CHAPTER.—The President is authorized to establish military commissions under this chapter for offenses triable by military commission as provided in this chapter.

"(c) CONSTRUCTION OF PROVISIONS.—The procedures for military commissions set forth in this chapter are based upon the procedures for trial by general courts-martial under chapter 47 of this title (the Uniform Code of Military Justice). Chapter 47 of this title does not, by its terms, apply to trial by military commission except as specifically provided in this chapter. The judicial construction

and application of that chapter are not binding on military commissions established under this chapter.

"(d) INAPPLICABILITY OF CERTAIN PROVISIONS.—(1) The following provisions of this title shall not apply to trial by military commission under this chapter:

"(A) Section 810 (article 10 of the Uniform Code of Military Justice), relating to speedy trial, including any rule of courts-martial relating to speedy trial.

"(B) Sections 831(a), (b), and (d) (articles 31(a), (b), and (d) of the Uniform Code of Military Justice), relating to compulsory self-incrimination.

"(C) Section 832 (article 32 of the Uniform Code of Military Justice), relating to pretrial investigation.

"(2) Other provisions of chapter 47 of this title shall apply to trial by military commission under this chapter only to the extent provided by this chapter.

"(e) TREATMENT OF RULINGS AND PRECEDENTS.—The findings, holdings, interpretations, and other precedents of military commissions under this chapter may not be introduced or considered in any hearing, trial, or other proceeding of a court-martial convened under chapter 47 of this title. The findings, holdings, interpretations, and other precedents of military commissions under this chapter may not form the basis of any holding, decision, or other determination of a court-martial convened under that chapter.

"(f) STATUS OF COMMISSIONS UNDER COMMON ARTICLE 3.—A military commission established under this chapter is a regularly constituted court, affording all the necessary 'judicial guarantees which are recognized as indispensable by civilized peoples' for purposes of common Article 3 of the Geneva Conventions.

"(g) GENEVA CONVENTIONS NOT ESTABLISHING SOURCE OF RIGHTS.—No alien unlawful enemy combatant subject to trial by military commission under this chapter may invoke the Geneva Conventions as a source of rights.

### "§ 948c. Persons subject to military commissions

"Any alien unlawful enemy combatant is subject to trial by military commission under this chapter.

### "§ 948d. Jurisdiction of military commissions

"(a) JURISDICTION.—A military commission under this chapter shall have jurisdiction to try any offense made punishable by this chapter or the law of war when committed by an alien unlawful enemy combatant before, on, or after September 11, 2001.

"(b) LAWFUL ENEMY COMBATANTS.—Military commissions under this chapter shall not have jurisdiction over lawful enemy combatants. Lawful enemy combatants who violate the law of war are subject to chapter 47 of this title. Courts-martial established under that chapter shall have jurisdiction to try a lawful enemy combatant for any offense made punishable under this chapter.

"(c) DETERMINATION OF UNLAWFUL ENEMY COMBATANT STATUS DISPOSITIVE.—A finding, whether before, on, or after the date of the enactment of the Military Commissions Act of 2006, by a Combatant Status Review Tribunal or another competent tribunal established under the authority of the President or the Secretary of

Defense that a person is an unlawful enemy combatant is dispositive for purposes of jurisdiction for trial by military commission under this chapter.

"(d) PUNISHMENTS.—A military commission under this chapter may, under such limitations as the Secretary of Defense may prescribe, adjudge any punishment not forbidden by this chapter, including the penalty of death when authorized under this chapter or the law of war.

**"§ 948e. Annual report to congressional committees**

"(a) ANNUAL REPORT REQUIRED.—Not later than December 31 each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on any trials conducted by military commissions under this chapter during such year.

"(b) FORM.—Each report under this section shall be submitted in unclassified form, but may include a classified annex.

Sec. 3 of this Act also added Subchapters II through VI to the new Chapter 47A of Title 10. Subchapter II (10 U.S.C. 948h–948m) deals with the composition of military tribunals; Subchapter III (10 U.S.C. 948q–948s) with pretrial procedure; Subchapter IV (10 U.S.C. 949a–949o) with trial procedure; Subchapter V (10 U.S.C. 949s–949u) with sentences; and Subchapter VI (10 U.S.C. 950a–950j) with post-trial procedure and review of military commissions.

"SUBCHAPTER VII—PUNITIVE MATTERS

* * * * * * *

**"§ 950v. Crimes triable by military commissions**

"(a) DEFINITIONS AND CONSTRUCTION.—In this section:

"(1) MILITARY OBJECTIVE.—The term 'military objective' means—

"(A) combatants; and

"(B) those objects during an armed conflict—

"(i) which, by their nature, location, purpose, or use, effectively contribute to the opposing force's warfighting or war-sustaining capability; and

"(ii) the total or partial destruction, capture, or neutralization of which would constitute a definite military advantage to the attacker under the circumstances at the time of the attack.

"(2) PROTECTED PERSON.—The term 'protected person' means any person entitled to protection under one or more of the Geneva Conventions, including—

"(A) civilians not taking an active part in hostilities;

"(B) military personnel placed hors de combat by sickness, wounds, or detention; and

"(C) military medical or religious personnel.

"(3) PROTECTED PROPERTY.—The term 'protected property' means property specifically protected by the law of war (such as buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals, or places where the sick and wounded are collected), if such property is not being used for military purposes or is not otherwise a military objective. Such term includes objects properly identified by one of the distinctive emblems of the Geneva Conventions, but does not include civilian property that is a military objective.

"(4) CONSTRUCTION.—The intent specified for an offense under paragraph (1), (2), (3), (4), or (12) of subsection (b) precludes the applicability of such offense with regard to—

"(A) collateral damage; or

"(B) death, damage, or injury incident to a lawful attack.

"(b) OFFENSES.—The following offenses shall be triable by military commission under this chapter at any time without limitation:

"(1) MURDER OF PROTECTED PERSONS.—Any person subject to this chapter who intentionally kills one or more protected persons shall be punished by death or such other punishment as a military commission under this chapter may direct.

"(2) ATTACKING CIVILIANS.—Any person subject to this chapter who intentionally engages in an attack upon a civilian population as such, or individual civilians not taking active part in hostilities, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(3) ATTACKING CIVILIAN OBJECTS.—Any person subject to this chapter who intentionally engages in an attack upon a civilian object that is not a military objective shall be punished as a military commission under this chapter may direct.

"(4) ATTACKING PROTECTED PROPERTY.—Any person subject to this chapter who intentionally engages in an attack upon protected property shall be punished as a military commission under this chapter may direct.

"(5) PILLAGING.—Any person subject to this chapter who intentionally and in the absence of military necessity appropriates or seizes property for private or personal use, without the consent of a person with authority to permit such appropriation or seizure, shall be punished as a military commission under this chapter may direct.

"(6) DENYING QUARTER.—Any person subject to this chapter who, with effective command or control over subordinate groups, declares, orders, or otherwise indicates to those groups that there shall be no survivors or surrender accepted, with the intent to threaten an adversary or to conduct hostilities such that there would be no survivors or surrender accepted, shall be punished as a military commission under this chapter may direct.

"(7) TAKING HOSTAGES.—Any person subject to this chapter who, having knowingly seized or detained one or more persons, threatens to kill, injure, or continue to detain such person or persons with the intent of compelling any nation, person other than the hostage, or group of persons to act or refrain from acting as an explicit or implicit condition for the safety or release of such person or persons, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(8) EMPLOYING POISON OR SIMILAR WEAPONS.—Any person subject to this chapter who intentionally, as a method of warfare, employs a substance or weapon that releases a substance that causes death or serious and lasting damage to health in the ordinary course of events, through its asphyxiating, bacteriological, or toxic properties, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(9) USING PROTECTED PERSONS AS A SHIELD.—Any person subject to this chapter who positions, or otherwise takes advantage of, a protected person with the intent to shield a military objective from attack, or to shield, favor, or impede military operations, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(10) USING PROTECTED PROPERTY AS A SHIELD.—Any person subject to this chapter who positions, or otherwise takes advantage of the location of, protected property with the intent to shield a military objective from attack, or to shield, favor, or impede military operations, shall be punished as a military commission under this chapter may direct.

"(11) TORTURE.—

"(A) OFFENSE.—Any person subject to this chapter who commits an act specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control for the purpose of obtaining information or a confession, punishment, intimidation, coercion, or any reason based on discrimination of any kind, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(B) SEVERE MENTAL PAIN OR SUFFERING DEFINED.—In this section, the term 'severe mental pain or suffering' has the meaning given that term in section 2340(2) of title 18.

"(12) CRUEL OR INHUMAN TREATMENT.—

"(A) OFFENSE.—Any person subject to this chapter who commits an act intended to inflict severe or serious physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions), including serious physical abuse, upon another within his custody or control shall be punished, if death results to the victim, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to the victim, by such punishment, other than death, as a military commission under this chapter may direct.

"(B) DEFINITIONS.—In this paragraph:

"(i) The term 'serious physical pain or suffering' means bodily injury that involves—

"(I) a substantial risk of death;

"(II) extreme physical pain;

"(III) a burn or physical disfigurement of a serious nature (other than cuts, abrasions, or bruises); or

"(IV) significant loss or impairment of the function of a bodily member, organ, or mental faculty.

"(ii) The term 'severe mental pain or suffering' has the meaning given that term in section 2340(2) of title 18.

"(iii) The term 'serious mental pain or suffering' has the meaning given the term 'severe mental pain or suffering' in section 2340(2) of title 18, except that—

"(I) the term 'serious' shall replace the term 'severe' where it appears; and

"(II) as to conduct occurring after the date of the enactment of the Military Commissions Act of 2006, the term 'serious and non-transitory mental harm (which need not be prolonged)' shall replace the term 'prolonged mental harm' where it appears.

"(13) INTENTIONALLY CAUSING SERIOUS BODILY INJURY.—

"(A) OFFENSE.—Any person subject to this chapter who intentionally causes serious bodily injury to one or more persons, including lawful combatants, in violation of the law of war shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(B) SERIOUS BODILY INJURY DEFINED.—In this paragraph, the term 'serious bodily injury' means bodily injury which involves—

"(i) a substantial risk of death;

"(ii) extreme physical pain;

"(iii) protracted and obvious disfigurement; or

"(iv) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"(14) MUTILATING OR MAIMING.—Any person subject to this chapter who intentionally injures one or more protected persons by disfiguring the person or persons by any mutilation of the person or persons, or by permanently disabling any member, limb, or organ of the body of the person or persons, without any legitimate medical or dental purpose, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(15) MURDER IN VIOLATION OF THE LAW OF WAR.—Any person subject to this chapter who intentionally kills one or more persons, including lawful combatants, in violation of the law of war shall be punished by death or such other punishment as a military commission under this chapter may direct.

"(16) DESTRUCTION OF PROPERTY IN VIOLATION OF THE LAW OF WAR.—Any person subject to this chapter who intentionally destroys property belonging to another person in violation of the law of war shall punished as a military commission under this chapter may direct.

"(17) USING TREACHERY OR PERFIDY.—Any person subject to this chapter who, after inviting the confidence or belief of one or more persons that they were entitled to, or obliged to accord, protection under the law of war, intentionally makes use of that confidence or belief in killing, injuring, or capturing such person or persons shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(18) IMPROPERLY USING A FLAG OF TRUCE.—Any person subject to this chapter who uses a flag of truce to feign an intention to negotiate, surrender, or otherwise suspend hostilities when there is no such intention shall be punished as a military commission under this chapter may direct.

"(19) IMPROPERLY USING A DISTINCTIVE EMBLEM.—Any person subject to this chapter who intentionally uses a distinctive emblem recognized by the law of war for combatant purposes in a manner prohibited by the law of war shall be punished as a military commission under this chapter may direct.

"(20) INTENTIONALLY MISTREATING A DEAD BODY.—Any person subject to this chapter who intentionally mistreats the body of a dead person, without justification by legitimate military necessity, shall be punished as a military commission under this chapter may direct.

"(21) RAPE.—Any person subject to this chapter who forcibly or with coercion or threat of force wrongfully invades the body of a person by penetrating, however slightly, the anal or genital opening of the victim with any part of the body of the ac-

cused, or with any foreign object, shall be punished as a military commission under this chapter may direct.

"(22) SEXUAL ASSAULT OR ABUSE.—Any person subject to this chapter who forcibly or with coercion or threat of force engages in sexual contact with one or more persons, or causes one or more persons to engage in sexual contact, shall be punished as a military commission under this chapter may direct.

"(23) HIJACKING OR HAZARDING A VESSEL OR AIRCRAFT.—Any person subject to this chapter who intentionally seizes, exercises unauthorized control over, or endangers the safe navigation of a vessel or aircraft that is not a legitimate military objective shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(24) TERRORISM.—Any person subject to this chapter who intentionally kills or inflicts great bodily harm on one or more protected persons, or intentionally engages in an act that evinces a wanton disregard for human life, in a manner calculated to influence or affect the conduct of government or civilian population by intimidation or coercion, or to retaliate against government conduct, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

"(25) PROVIDING MATERIAL SUPPORT FOR TERRORISM.—

"(A) OFFENSE.—Any person subject to this chapter who provides material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, an act of terrorism (as set forth in paragraph (24)), or who intentionally provides material support or resources to an international terrorist organization engaged in hostilities against the United States, knowing that such organization has engaged or engages in terrorism (as so set forth), shall be punished as a military commission under this chapter may direct.

"(B) MATERIAL SUPPORT OR RESOURCES DEFINED.—In this paragraph, the term 'material support or resources' has the meaning given that term in section 2339A(b) of title 18.

"(26) WRONGFULLY AIDING THE ENEMY.—Any person subject to this chapter who, in breach of an allegiance or duty to the United States, knowingly and intentionally aids an enemy of the United States, or one of the co-belligerents of the enemy, shall be punished as a military commission under this chapter may direct.

"(27) SPYING.—Any person subject to this chapter who with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign power, collects or attempts to collect information by clandestine means or while acting under false pretenses, for the purpose of con-

veying such information to an enemy of the United States, or one of the co-belligerents of the enemy, shall be punished by death or such other punishment as a military commission under this chapter may direct.

"(28) CONSPIRACY.—Any person subject to this chapter who conspires to commit one or more substantive offenses triable by military commission under this chapter, and who knowingly does any overt act to effect the object of the conspiracy, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

* * * * * * *

**SEC. 5.[2] TREATY OBLIGATIONS NOT ESTABLISHING GROUNDS FOR CERTAIN CLAIMS.**

(a) IN GENERAL.—No person may invoke the Geneva Conventions or any protocols thereto in any habeas corpus or other civil action or proceeding to which the United States, or a current or former officer, employee, member of the Armed Forces, or other agent of the United States is a party as a source of rights in any court of the United States or its States or territories.

(b) GENEVA CONVENTIONS DEFINED.—In this section, the term "Geneva Conventions" means—

(1) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3114);

(2) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of the Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

(3) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(4) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

**SEC. 6.[3] IMPLEMENTATION OF TREATY OBLIGATIONS.**

(a) IMPLEMENTATION OF TREATY OBLIGATIONS.—

(1) IN GENERAL.—The acts enumerated in subsection (d) of section 2441 of title 18, United States Code, as added by subsection (b) of this section, and in subsection (c) of this section, constitute violations of common Article 3 of the Geneva Conventions prohibited by United States law.

(2) PROHIBITION ON GRAVE BREACHES.—The provisions of section 2441 of title 18, United States Code, as amended by this section, fully satisfy the obligation under Article 129 of the Third Geneva Convention for the United States to provide effective penal sanctions for grave breaches which are encompassed in common Article 3 in the context of an armed conflict not of an international character. No foreign or international source of law shall supply a basis for a rule of decision in the

[2] 28 U.S.C. 2241 note.
[3] 18 U.S.C. 2441 note.

courts of the United States in interpreting the prohibitions enumerated in subsection (d) of such section 2441.

(3) INTERPRETATION BY THE PRESIDENT.—

(A) As provided by the Constitution and by this section, the President has the authority for the United States to interpret the meaning and application of the Geneva Conventions and to promulgate higher standards and administrative regulations for violations of treaty obligations which are not grave breaches of the Geneva Conventions.

(B) The President shall issue interpretations described by subparagraph (A) by Executive Order published in the Federal Register.

(C) Any Executive Order published under this paragraph shall be authoritative (except as to grave breaches of common Article 3) as a matter of United States law, in the same manner as other administrative regulations.

(D) Nothing in this section shall be construed to affect the constitutional functions and responsibilities of Congress and the judicial branch of the United States.

(4) DEFINITIONS.—In this subsection:

(A) GENEVA CONVENTIONS.—The term "Geneva Conventions" means—

(i) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3217);

(ii) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of the Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

(iii) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(iv) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

(B) THIRD GENEVA CONVENTION.—The term "Third Geneva Convention" means the international convention referred to in subparagraph (A)(iii).

(b) REVISION TO WAR CRIMES OFFENSE UNDER FEDERAL CRIMINAL CODE.—

(1) IN GENERAL.—Section 2441 of title 18, United States Code, is amended— * * *

(2) * * *

(c)[4] ADDITIONAL PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT.—

(1) IN GENERAL.—No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(2) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.—In this subsection, the term "cruel, inhuman, or degrading treatment or punishment" means cruel, unusual,

[4] 42 U.S.C. 2000dd–0.

and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

(3) COMPLIANCE.—The President shall take action to ensure compliance with this subsection, including through the establishment of administrative rules and procedures.

* * * * * * *

## (3) Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism

**Military Order of November 13, 2001, 66 F.R. 57833, superseded by Executive Order 13425**

By the authority vested in me as President and as Commander in Chief of the Armed Forces of the United States by the Constitution and the laws of the United States of America, including the Authorization for Use of Military Force Joint Resolution (Public Law 107–40, 115 Stat. 224) and sections 821 and 836 of title 10, United States Code, it is hereby ordered as follows:

**Section 1.** *Findings.*

(a) International terrorists, including members of al Qaida, have carried out attacks on United States diplomatic and military personnel and facilities abroad and on citizens and property within the United States on a scale that has created a state of armed conflict that requires the use of the United States Armed Forces.

(b) In light of grave acts of terrorism and threats of terrorism, including the terrorist attacks on September 11, 2001, on the headquarters of the United States Department of Defense in the national capital region, on the World Trade Center in New York, and on civilian aircraft such as in Pennsylvania, I proclaimed a national emergency on September 14, 2001 (Proc. 7463, Declaration of National Emergency by Reason of Certain Terrorist Attacks).[1]

(c) Individuals acting alone and in concert involved in international terrorism possess both the capability and the intention to undertake further terrorist attacks against the United States that, if not detected and prevented, will cause mass deaths, mass injuries, and massive destruction of property, and may place at risk the continuity of the operations of the United States Government.

(d) The ability of the United States to protect the United States and its citizens, and to help its allies and other cooperating nations protect their nations and their citizens, from such further terrorist attacks depends in significant part upon using the United States Armed Forces to identify terrorists and those who support them, to disrupt their activities, and to eliminate their ability to conduct or support such attacks.

(e) To protect the United States and its citizens, and for the effective conduct of military operations and prevention of terrorist attacks, it is necessary for individuals subject to this order pursuant to section 2 hereof to be detained, and, when tried, to be tried for violations of the laws of war and other applicable laws by military tribunals.

(f) Given the danger to the safety of the United States and the nature of international terrorism, and to the extent provided by and under this order, I find consistent with section 836 of title 10,

[1] 66 F.R. 48199, 50 U.S.C. 1621 note.

United States Code, that it is not practicable to apply in military commissions under this order the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the United States district courts.

(g) Having fully considered the magnitude of the potential deaths, injuries, and property destruction that would result from potential acts of terrorism against the United States, and the probability that such acts will occur, I have determined that an extraordinary emergency exists for national defense purposes, that this emergency constitutes an urgent and compelling government interest, and that issuance of this order is necessary to meet the emergency.

**Sec. 2.** *Definition and Policy.*

(a) The term "individual subject to this order" shall mean any individual who is not a United States citizen with respect to whom I determine from time to time in writing that:

(1) there is reason to believe that such individual, at the relevant times,

(i) is or was a member of the organization known as al Qaida;

(ii) has engaged in, aided or abetted, or conspired to commit, acts of international terrorism, or acts in preparation therefor, that have caused, threaten to cause, or have as their aim to cause, injury to or adverse effects on the United States, its citizens, national security, foreign policy, or economy; or

(iii) has knowingly harbored one or more individuals described in subparagraphs (i) or (ii) of subsection 2(a)(1) of this order; and

(2) it is in the interest of the United States that such individual be subject to this order.

(b) It is the policy of the United States that the Secretary of Defense shall take all necessary measures to ensure that any individual subject to this order is detained in accordance with section 3, and, if the individual is to be tried, that such individual is tried only in accordance with section 4.

(c) It is further the policy of the United States that any individual subject to this order who is not already under the control of the Secretary of Defense but who is under the control of any other officer or agent of the United States or any State shall, upon delivery of a copy of such written determination to such officer or agent, forthwith be placed under the control of the Secretary of Defense.

**Sec. 3.** *Detention Authority of the Secretary of Defense.* Any individual subject to this order shall be —

(a) detained at an appropriate location designated by the Secretary of Defense outside or within the United States;

(b) treated humanely, without any adverse distinction based on race, color, religion, gender, birth, wealth, or any similar criteria;

(c) afforded adequate food, drinking water, shelter, clothing, and medical treatment;

(d) allowed the free exercise of religion consistent with the requirements of such detention; and

(e) detained in accordance with such other conditions as the Secretary of Defense may prescribe.

**Sec. 4.** *Authority of the Secretary of Defense Regarding Trials of Individuals Subject to this Order.*

(a) Any individual subject to this order shall, when tried, be tried by military commission for any and all offenses triable by military commission that such individual is alleged to have committed, and may be punished in accordance with the penalties provided under applicable law, including life imprisonment or death.

(b) As a military function and in light of the findings in section 1, including subsection (f) thereof, the Secretary of Defense shall issue such orders and regulations, including orders for the appointment of one or more military commissions, as may be necessary to carry out subsection (a) of this section.

(c) Orders and regulations issued under subsection (b) of this section shall include, but not be limited to, rules for the conduct of the proceedings of military commissions, including pretrial, trial, and post-trial procedures, modes of proof, issuance of process, and qualifications of attorneys, which shall at a minimum provide for—

(1) military commissions to sit at any time and any place, consistent with such guidance regarding time and place as the Secretary of Defense may provide;

(2) a full and fair trial, with the military commission sitting as the triers of both fact and law;

(3) admission of such evidence as would, in the opinion of the presiding officer of the military commission (or instead, if any other member of the commission so requests at the time the presiding officer renders that opinion, the opinion of the commission rendered at that time by a majority of the commission), have probative value to a reasonable person;

(4) in a manner consistent with the protection of information classified or classifiable under Executive Order 12958 of April 17, 1995, as amended, or any successor Executive Order, protected by statute or rule from unauthorized disclosure, or otherwise protected by law, (A) the handling of, admission into evidence of, and access to materials and information, and (B) the conduct, closure of, and access to proceedings;

(5) conduct of the prosecution by one or more attorneys designated by the Secretary of Defense and conduct of the defense by attorneys for the individual subject to this order;

(6) conviction only upon the concurrence of two-thirds of the members of the commission present at the time of the vote, a majority being present;

(7) sentencing only upon the concurrence of two-thirds of the members of the commission present at the time of the vote, a majority being present; and

(8) submission of the record of the trial, including any conviction or sentence, for review and final decision by me or by the Secretary of Defense if so designated by me for that purpose.

**Sec. 5.** *Obligation of Other Agencies to Assist the Secretary of Defense.*

Departments, agencies, entities, and officers of the United States shall, to the maximum extent permitted by law, provide to the Secretary of Defense such assistance as he may request to implement this order.

**Sec. 6.** *Additional Authorities of the Secretary of Defense.*

(a) As a military function and in light of the findings in section 1, the Secretary of Defense shall issue such orders and regulations as may be necessary to carry out any of the provisions of this order.

(b) The Secretary of Defense may perform any of his functions or duties, and may exercise any of the powers provided to him under this order (other than under section 4(c)(8) hereof) in accordance with section 113(d) of title 10, United States Code.

**Sec. 7.** *Relationship to Other Law and Forums.*

(a) Nothing in this order shall be construed to—

(1) authorize the disclosure of state secrets to any person not otherwise authorized to have access to them;

(2) limit the authority of the President as Commander in Chief of the Armed Forces or the power of the President to grant reprieves and pardons; or

(3) limit the lawful authority of the Secretary of Defense, any military commander, or any other officer or agent of the United States or of any State to detain or try any person who is not an individual subject to this order.

(b) With respect to any individual subject to this order—

(1) military tribunals shall have exclusive jurisdiction with respect to offenses by the individual; and

(2) the individual shall not be privileged to seek any remedy or maintain any proceeding, directly or indirectly, or to have any such remedy or proceeding sought on the individual's behalf, in (i) any court of the United States, or any State thereof, (ii) any court of any foreign nation, or (iii) any international tribunal.

(c) This order is not intended to and does not create any right, benefit, or privilege, substantive or procedural, enforceable at law or equity by any party, against the United States, its departments, agencies, or other entities, its officers or employees, or any other person.

(d) For purposes of this order, the term "State" includes any State, district, territory, or possession of the United States.

(e) I reserve the authority to direct the Secretary of Defense, at any time hereafter, to transfer to a governmental authority control of any individual subject to this order. Nothing in this order shall be construed to limit the authority of any such governmental authority to prosecute any individual for whom control is transferred.

**Sec. 8.** *Publication.*

This order shall be published in the Federal Register.

## (4) Trial of Alien Unlawful Enemy Combatants by Military Commission

**Executive Order 13425, February 14, 2007, 72 F.R. 7737, 10 U.S.C. 948b note**

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Military Commissions Act of 2006 (Public Law 109–366), the Authorization for Use of Military Force (Public Law 107–40), and section 948b(b) of title 10, United States Code, it is hereby ordered as follows:

**Section 1.** *Establishment of Military Commissions.* There are hereby established military commissions to try alien unlawful enemy combatants for offenses triable by military commission as provided in chapter 47A of title 10.

**Sec. 2.** *Definitions.* As used in this order:

(a) "unlawful enemy combatant" has the meaning provided for that term in section 948a(1) of title 10; and

(b) "alien" means a person who is not a citizen of the United States.

**Sec. 3.** *Supersedure.* This order supersedes any provision of the President's Military Order of November 13, 2001 (66 *Fed. Reg.* 57,833), that relates to trial by military commission, specifically including:

(a) section 4 of the Military Order; and

(b) any requirement in section 2 of the Military Order, as it relates to trial by military commission, for a determination of:

(i) reason to believe specified matters; or

(ii) the interest of the United States.

**Sec. 4.** *General Provisions.* (a) This order shall be implemented in accordance with applicable law and subject to the availability of appropriations.

(b) The heads of executive departments and agencies shall provide such information and assistance to the Secretary of Defense as may be necessary to implement this order and chapter 47A of title 10.

## (5) Interpretation of the Geneva Conventions Common Article 3 as Applied to a Program of Detention and Interrogation Operated by the Central Intelligence Agency

**Executive Order 13440, July 20, 2007, 72 F.R. 40707, 18 U.S.C. 2441 note**

By the authority vested in me as President and Commander in Chief of the Armed Forces by the Constitution and the laws of the United States of America, including the Authorization for Use of Military Force (Public Law 107–40), the Military Commissions Act of 2006 (Public Law 109–366), and section 301 of title 3, United States Code, it is hereby ordered as follows:

**Section 1.** *General Determinations.* (a) The United States is engaged in an armed conflict with al Qaeda, the Taliban, and associated forces. Members of al Qaeda were responsible for the attacks on the United States of September 11, 2001, and for many other terrorist attacks, including against the United States, its personnel, and its allies throughout the world. These forces continue to fight the United States and its allies in Afghanistan, Iraq, and elsewhere, and they continue to plan additional acts of terror throughout the world. On February 7, 2002, I determined for the United States that members of al Qaeda, the Taliban, and associated forces are unlawful enemy combatants who are not entitled to the protections that the Third Geneva Convention provides to prisoners of war. I hereby reaffirm that determination.

(b) The Military Commissions Act defines certain prohibitions of Common Article 3 for United States law, and it reaffirms and reinforces the authority of the President to interpret the meaning and application of the Geneva Conventions.

**Sec. 2.** *Definitions.* As used in this order:

(a) "Common Article 3" means Article 3 of the Geneva Conventions.

(b) "Geneva Conventions" means:

(i) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3114);

(ii) the Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

(iii) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(iv) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

(c) "Cruel, inhuman, or degrading treatment or punishment" means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States.

**Sec. 3.** *Compliance of a Central Intelligence Agency Detention and Interrogation Program with Common Article 3.* (a) Pursuant to the authority of the President under the Constitution and the laws of the United States, including the Military Commissions Act of 2006, this order interprets the meaning and application of the text of Common Article 3 with respect to certain detentions and interrogations, and shall be treated as authoritative for all purposes as a matter of United States law, including satisfaction of the international obligations of the United States. I hereby determine that Common Article 3 shall apply to a program of detention and interrogation operated by the Central Intelligence Agency as set forth in this section. The requirements set forth in this section shall be applied with respect to detainees in such program without adverse distinction as to their race, color, religion or faith, sex, birth, or wealth.

(b) I hereby determine that a program of detention and interrogation approved by the Director of the Central Intelligence Agency fully complies with the obligations of the United States under Common Article 3, provided that:

(i) the conditions of confinement and interrogation practices of the program do not include:

(A) torture, as defined in section 2340 of title 18, United States Code;

(B) any of the acts prohibited by section 2441(d) of title 18, United States Code, including murder, torture, cruel or inhuman treatment, mutilation or maiming, intentionally causing serious bodily injury, rape, sexual assault or abuse, taking of hostages, or performing of biological experiments;

(C) other acts of violence serious enough to be considered comparable to murder, torture, mutilation, and cruel or inhuman treatment, as defined in section 2441(d) of title 18, United States Code;

(D) any other acts of cruel, inhuman, or degrading treatment or punishment prohibited by the Military Commissions Act (subsection 6(c) of Public Law 109–366) and the Detainee Treatment Act of 2005 (section 1003 of Public Law 109–148 and section 1403 of Public Law 109–163);

(E) willful and outrageous acts of personal abuse done for the purpose of humiliating or degrading the individual in a manner so serious that any reasonable person, considering the circumstances, would deem the acts to be beyond the bounds of human decency, such as sexual or sexually indecent acts undertaken for the purpose of humiliation, forcing the individual to perform sexual acts or to pose sexually, threatening the individual with sexual mutilation, or using the individual as a human shield; or

(F) acts intended to denigrate the religion, religious practices, or religious objects of the individual;

(ii) the conditions of confinement and interrogation practices are to be used with an alien detainee who is determined by the Director of the Central Intelligence Agency:

(A) to be a member or part of or supporting al Qaeda, the Taliban, or associated organizations; and

(B) likely to be in possession of information that:

(1) could assist in detecting, mitigating, or preventing terrorist attacks, such as attacks within the United States or against its Armed Forces or other personnel, citizens, or facilities, or against allies or other countries cooperating in the war on terror with the United States, or their armed forces or other personnel, citizens, or facilities; or

(2) could assist in locating the senior leadership of al Qaeda, the Taliban, or associated forces;

(iii) the interrogation practices are determined by the Director of the Central Intelligence Agency, based upon professional advice, to be safe for use with each detainee with whom they are used; and

(iv) detainees in the program receive the basic necessities of life, including adequate food and water, shelter from the elements, necessary clothing, protection from extremes of heat and cold, and essential medical care.

(c) The Director of the Central Intelligence Agency shall issue written policies to govern the program, including guidelines for Central Intelligence Agency personnel that implement paragraphs (i)(C), (E), and (F) of subsection 3(b) of this order, and including requirements to ensure:

(i) safe and professional operation of the program;

(ii) the development of an approved plan of interrogation tailored for each detainee in the program to be interrogated, consistent with subsection 3(b)(iv) of this order;

(iii) appropriate training for interrogators and all personnel operating the program;

(iv) effective monitoring of the program, including with respect to medical matters, to ensure the safety of those in the program; and

(v) compliance with applicable law and this order.

**Sec. 4.** *Assignment of Function.* With respect to the program addressed in this order, the function of the President under section 6(c)(3) of the Military Commissions Act of 2006 is assigned to the Director of National Intelligence.

**Sec. 5.** *General Provisions.* (a) Subject to subsection (b) of this section, this order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, against the United States, its departments, agencies, or other entities, its officers or employees, or any other person.

(b) Nothing in this order shall be construed to prevent or limit reliance upon this order in a civil, criminal, or administrative proceeding, or otherwise, by the Central Intelligence Agency or by any individual acting on behalf of the Central Intelligence Agency in connection with the program addressed in this order.

## e. United States Policy Toward Haiti [1]

**Public Law 103–423 [S.J. Res. 229], 108 Stat. 4358, approved October 25, 1994**

JOINT RESOLUTION Regarding United States policy toward Haiti.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SENSE OF CONGRESS REGARDING UNITED STATES ARMED FORCES OPERATIONS IN HAITI.**

It is the sense of Congress that—

(a) the men and women of the United States Armed Forces in Haiti who are performing with professional excellence and dedicated patriotism are to be commended;

(b) the President should have sought and welcomed Congressional approval before deploying United States Armed Forces to Haiti;

(c) the departure from power of the de facto authorities in Haiti, and Haitian efforts to achieve national reconciliation, democracy and the rule of law are in the best interests of the Haitian people;

(d) the President's lifting of the unilateral economic sanctions on Haiti, and his efforts to bring about the lifting of economic sanctions imposed by the United Nations are appropriate; and

(e) Congress supports a prompt and orderly withdrawal of all United States Armed Forces from Haiti as soon as possible.

**SEC. 2. PRESIDENTIAL STATEMENT OF NATIONAL SECURITY OBJECTIVES.**

The President shall prepare and submit to the President pro tempore of the Senate and the Speaker of the House of Representatives (hereafter, "Congress") not later than seven days after enactment of this resolution a statement of the national security objectives to be achieved by Operation Uphold Democracy, and a detailed description of United States policy, the military mission and

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[1] 50 U.S.C. 1541 note. Sec. 1232 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 788) provided the following:

**"SEC. 1232. LIMITATION ON DEPLOYMENT OF ARMED FORCES IN HAITI DURING FISCAL YEAR 2000 AND CONGRESSIONAL NOTICE OF DEPLOYMENTS TO HAITI.**

"(a) LIMITATION ON DEPLOYMENT.—No funds available to the Department of Defense during fiscal year 2000 may be expended after May 31, 2000, for the continuous deployment of United States Armed Forces in Haiti pursuant to the Department of Defense operation designated as Operation Uphold Democracy.

"(b) REPORT.—Whenever there is a deployment of United States Armed Forces to Haiti after May 31, 2000, the President shall, not later than 96 hours after such deployment begins, transmit to Congress a written report regarding the deployment. In any such report, the President shall specify (1) the purpose of the deployment, and (2) the date on which the deployment is expected to end.".

Subsequently, sec. 1222 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1253) repealed subsec. (b) of sec. 1232.

the general rules of engagement under which operations of United States Armed Forces are conducted in and around Haiti, including the role of United States Armed Forces regarding Haitian on Haitian violence, and efforts to disarm Haitian military or police forces, or civilians. Changes or modifications to such objectives, policy, military mission, or general rules of engagement shall be submitted to Congress within forty-eight hours of approval.

**SEC. 3. REPORT ON THE SITUATION IN HAITI.**

Not later than November 1, 1994, and monthly thereafter until the cessation of Operation Uphold Democracy, the President shall submit a report to Congress on the situation in Haiti, including—

(a) a listing of the units of the United States Armed Forces and of the police and military units of other nations participating in operations in and around Haiti;

(b) the estimated duration of Operation Uphold Democracy and progress toward the withdrawal of all United States Armed Forces from Haiti consistent with the goal of section 1(e) of this resolution;

(c) armed incidents or the use of force in or around Haiti involving United States Armed Forces or Coast Guard personnel in the time period covered by the report;

(d) the estimated cumulative incremental cost of all United States activities subsequent to September 30, 1993, in and around Haiti, including but not limited to—

(1) the cost of all deployments of United States Armed Forces and Coast Guard personnel, training, exercises, mobilization, and preparation activities, including the preparation of police and military units of the other nations of the multinational force involved in enforcement of sanctions, limits on migration, establishment and maintenance of migrant facilities at Guantanamo Bay and elsewhere, and all other activities relating to operations in and around Haiti; and

(2) the costs of all other activities relating to United States policy toward Haiti, including humanitarian assistance, reconstruction, aid and other financial assistance, and all other costs to the United States Government;

(e) a detailed accounting of the source of funds obligated or expended to meet the costs described in subparagraph (d), including—

(1) in the case of funds expended from the Department of Defense budget, a breakdown by military service or defense agency, line item and program, and

(2) in the case of funds expended from the budgets of departments and agencies other than the Department of Defense, by department or agency and program;

(f) the Administration plan for financing the costs of the operations and the impact on readiness without supplemental funding;

(g) a description of the situation in Haiti, including—

(1) the security situation;

(2) the progress made in transferring the functions of government to the democratically elected government of Haiti; and

(3) progress toward holding free and fair parliamentary elections;

(h) a description of issues relating to the United Nations Mission in Haiti (UNMIH), including—

(1) the preparedness of the United Nations Mission in Haiti (UNMIH) to deploy to Haiti to assume its functions;

(2) troop commitments by other nations to UNMIH;

(3) the anticipated cost to the United States of participation in UNMIH, including payments to the United Nations and financial, material and other assistance to UNMIH;

(4) proposed or actual participation of United States Armed Forces in UNMIH;

(5) proposed command arrangements for UNMIH, including proposed or actual placement of United States Armed Forces under foreign command; and

(6) the anticipated duration of UNMIH.

**SEC. 4. REPORT ON HUMAN RIGHTS.**

Not later than January 1, 1995, the Secretary of State shall report to Congress on the participation or involvement of any member of the de jure or de facto Haitian government in violations of internationally-recognized human rights from December 15, 1990, to December 15, 1994.

**SEC. 5. REPORT ON UNITED STATES AGREEMENTS.**

Not later than November 15, 1994, the Secretary of State shall provide a comprehensive report to Congress on all agreements the United States has entered into with other nations, including any assistance pledged or provided, in connection with United States efforts in Haiti. Such report shall also include information on any agreements or commitments relating to United Nations Security Council actions concerning Haiti since 1992.

**SEC. 6. TRANSITION TO UNITED NATIONS MISSION IN HAITI.**

Nothing in this resolution should be construed or interpreted to constitute Congressional approval or disapproval of the participation of United States Armed Forces in the United Nations Mission in Haiti.

## f. Authorization for Use of Military Force Against Iraq [1]

**Public Law 102–1 [H.J. Res. 77], 105 Stat. 3, approved January 14, 1991; as amended by Public Law 106–113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, H.R. 3427, enacted by reference in H.R. 3194], 113 Stat. 1536, approved November 29, 1999**

JOINT RESOLUTION To authorize the use of United States Armed Forces pursuant to United Nations Security Council Resolution 678.

Whereas the Government of Iraq without provocation invaded and occupied the territory of Kuwait on August 2, 1990;

Whereas both the House of Representatives (in H. J. Res. 658 of the 101st Congress) and the Senate (in S. Con. Res. 147 of the 101st Congress) have condemned Iraq's invasion of Kuwait and declared their support for international action to reverse Iraq's aggression;

Whereas, Iraq's conventional, chemical, biological, and nuclear weapons and ballistic missile programs and its demonstrated willingness to use weapons of mass destruction pose a grace threat to world peace;

Whereas the international community has demanded that Iraq withdraw unconditionally and immediately from Kuwait and that Kuwait's independence and legitimate government be restored;

Whereas the United Nations Security Council repeatedly affirmed the inherent right of individual or collective self-defense in response to the armed attack by Iraq against Kuwait in accordance with Article 51 of the United Nations Charter;

Whereas, in the absence of full compliance by Iraq with its resolutions, the United Nations Security Council in Resolution 678 has authorized member states of the United Nations to use all necessary means, after January 15, 1991, to uphold and implement all relevant Security Council resolutions and to restore international peace and security in the area; and

Whereas Iraq has persisted in its illegal occupation of, and brutal aggression against Kuwait: Now, therefore be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This joint resolution may be cited as the "Authorization for Use of Military Force Against Iraq Resolution".

**SEC. 2. AUTHORIZATION FOR USE OF UNITED STATES ARMED FORCES.**

(a) AUTHORIZATION.—The President is authorized, subject to subsection (b), to use United States Armed Forces pursuant to United Nations Security Council Resolution 678 (1990) in order to achieve

[1] 50 U.S.C. 1541 note. For other legislation on U.S. policy toward Iraq, see *Legislation on Foreign Relations Through 2008*, vol. I–B.

implementation of Security Council Resolutions 660, 661, 662, 664, 665, 666, 667, 669, 670, 674, and 677.[2]

(b) REQUIREMENT FOR DETERMINATION THAT USE OF MILITARY FORCE IS NECESSARY.—Before exercising the authority granted in subsection (a), the President shall make available to the Speaker of the House of Representatives and the President pro tempore of the Senate his determination that—

(1) the United States has used all appropriated diplomatic and other peaceful means to obtain compliance by Iraq with the United Nations Security Council resolutions cited in subsection (a); and

(2) that those efforts have not been and would not be successful in obtaining such compliance.

(c) WAR POWERS RESOLUTION REQUIREMENTS.—

(1) SPECIFIC STATUTORY AUTHORIZATION.—Consistent with section 8(a)(1) of the War Powers Resolution, the Congress declares that this section is intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution.

(2) APPLICABILITY OF OTHER REQUIREMENTS.—Nothing in this resolution supersedes any requirement of the War Powers Resolution.

**SEC. 3. REPORTS TO CONGRESS.**

At least once every 90[3] days, the President[4] shall submit to the Congress a summary on the status of efforts to obtain compliance by Iraq with the resolutions adopted by the United Nations Security Council in response to Iraq's aggression.

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[2] United Nations Security Council Resolution 678, adopted November 29, 1990, recalled and reaffirmed the intentions of earlier U.N. resolutions relating to Iraq's invasion of Kuwait on August 2, 1990. Earlier resolutions, in part, condemned the Iraqi invasion of Kuwait, demanded that Iraq withdraw immediately and unconditionally from Kuwait, and called on Iraq and Kuwait to begin negotiations for the resolution of their differences (Resolution 660 adopted August 2, 1990); prevented trade relations between Iraq and U.N. Member States, or the import of any Iraqi or Kuwaiti products, and established a Committee of the Security Council to examine progress of this trade embargo (Resolution 661 adopted August 6, 1990); determined that the annexation of Kuwait by Iraq had no legal validity (Resolution 662 of August 9, 1990); demanded that Iraq facilitate and permit the immediate departure from Kuwait and Iraq of third country citizens (Resolution 664 adopted August 18, 1990); called upon Member States to blockade maritime activity to the region (Resolution 665 adopted August 25, 1990); considered an exemption of the trade embargo for foodstuffs to Iraq and Kuwait (Resolution 666 adopted September 13, 1990); condemned Iraq's aggressions against international diplomatic premises and personnel in Kuwait (Resolution 667 adopted September 16, 1990); expanded responsibilities of the Committee established under Resolution 661 (Resolution 669 adopted September 14, 1990); further defined the trade embargo to include air traffic, and called upon Member States to detain Iraqi ships in port (Resolution 670 adopted September 25, 1990); condemned the taking of third nation nationals hostage, and condemned the destruction of Kuwaiti property by Iraq (Resolution 674 adopted October 29, 1990); and condemned Iraqi attempts to alter the demographic composition of the Kuwaiti population (Resolution 677 adopted November 28, 1990).

U.N. Security Council Resolution 678, adopted on November 29, 1990, read in part as follows:

"Demands that Iraq comply fully with resolutions 660 (1990) and all subsequent relevant resolutions, and decides, while maintaining all its decisions, to allow Iraq one final opportunity, as a pause of goodwill, to do so;

"Authorizes Member States cooperating with the Government of Kuwait, unless Iraq on or before 15 January 1991 fully implements, as set forth in paragraph 1 above, the foregoing resolutions, to use all necessary means to uphold and implement resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area;".

[3] Sec. 207 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), struck out "60" and inserted in lieu thereof "90".

[4] In a memorandum of July 2, 2004 (69 F.R. 43723; July 21, 2004; 50 U.S.C. 1541 note), the President delegated the reporting obligation in sec. 3 to the Secretary of State.

## g. Authorization for Use of Military Force in Somalia

**Partial text of Public Law 103–139 [Department of Defense Appropriations Act, 1994; H.R. 2519], 107 Stat. 1418 at 1475, approved November 11, 1993**

AN ACT Making appropriations for the Department of Defense for the fiscal year ending September 30, 1994, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1994, for military functions administered by the Department of Defense, and for other purposes, namely:

* * * * * * *

SEC. 8151.[1] (a) The Congress finds that—

(1) the United States entered into Operation Restore Hope in December of 1992 for the purpose of relieving mass starvation in Somalia;

(2) the original mission in Somalia, to secure the environment for humanitarian relief, had the unanimous support of the Senate, expressed in Senate Joint Resolution 45, passed on February 4, 1993, and was endorsed by the House when it amended S.J. Res. 45 on May 25, 1993;

(3) Operation Restore Hope was being successfully accomplished by United States forces, working with forces of other nations, when it was replaced by the UNOSOM II mission, assumed by the United Nations on May 4, 1993, pursuant to United Nations Resolution 814 of March 26, 1993;

(4) neither the expanded United Nations mission of national reconciliation, nor the broad mission of disarming the clans, nor any other mission not essential to the performance of the humanitarian mission has been endorsed or approved by the Senate;

(5) the expanded mission of the United Nations was, subsequent to an attack upon United Nations forces, diverted into a mission aimed primarily at capturing certain persons, pursuant to United Nations Security Council Resolution 837, of June 6, 1993;

(6) the actions of hostile elements in Mogadishu, and the United Nations mission to subdue those elements, have resulted in open conflict in the city of Mogadishu and the deaths of 29 Americans, at least 159 wounded, and the capture of American personnel; and

[1] 50 U.S.C. 1541 note.

(7) during fiscal years 1992 and 1993, the United States incurred expenses in excess of $1,100,000,000 to support operations in Somalia.

(b) The Congress approves the use of United States Armed Forces in Somalia for the following purposes:

(1) The protection of United States personnel and bases; and

(2) The provision of assistance in securing open lines of communication for the free flow of supplies and relief operations through the provision of—

(A) United States military logistical support services to United Nations forces; and

(B) United States combat forces in a security role and as an interim force protection supplement to United Nations units: *Provided*, That funds appropriated, or otherwise made available, in this or any other Act to the Department of Defense may be obligated for expenses incurred only through March 31, 1994, for the operations of United States Armed Forces in Somalia: *Provided further,* That such date may be extended if so requested by the President and authorized by the Congress: *Provided further,* That funds may be obligated beyond March 31, 1994 to support a limited number of United States military personnel sufficient only to protect American diplomatic facilities and American citizens, and noncombat personnel to advise the United Nations commander in Somalia: *Provided further,* That United States combat forces in Somalia shall be under the command and control of United States commanders under the ultimate direction of the President of the United States: *Provided further,* That the President should intensify efforts to have United Nations member countries immediately deploy additional troops to Somalia to fulfill previous force commitments made to the United Nations and to deploy additional forces to assume the security missions of United States Armed Forces: *Provided further,* That—

(i) captured United States personnel in Somalia should be treated humanely and fairly; and

(ii) the United States and the United Nations should make all appropriate efforts to ensure the immediate and safe return of any future captured United States personnel: *Provided further,* That the President should ensure that, at all times, United States military personnel in Somalia have the capacity to defend themselves, and American citizens: *Provided further,* That the United States Armed Forces should remain deployed in or around Somalia until such time as all American service personnel missing in action in Somalia are accounted for, and all American service personnel held prisoner in Somalia are released: *Provided further,* That nothing herein shall be deemed to restrict in any way the authority of the President under the Constitution to protect the lives of Americans.

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## h. U.S. Armed Forces in Somalia

**Partial text of Public Law 103–160 [H.R. 2401], 107 Stat. 1547 at 1840, approved November 30, 1993**

AN ACT To authorize appropriations for fiscal year 1994 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SEC. 1512.[1] INVOLVEMENT OF ARMED FORCES IN SOMALIA.**

(a) SENSE OF CONGRESS REGARDING UNITED STATES POLICY TOWARD SOMALIA.—

(1) Since United States Armed Forces made significant contributions under Operation Restore Hope towards the establishment of a secure environment for humanitarian relief operations and restoration of peace in the region to end the humanitarian disaster that had claimed more than 300,000 lives.

(2) Since the mission of United States forces in support of the United Nations appears to be evolving from the establishment of "a secure environment for humanitarian relief operations," as set out in United Nations Security Council Resolution 794 of December 3, 1992, to one of internal security and nation building.

(b) STATEMENT OF CONGRESSIONAL POLICY.—

(1) CONSULTATION WITH THE CONGRESS.—The President should consult closely with the Congress regarding United States policy with respect to Somalia, including in particular the deployment of United States Armed Forces in that country, whether under United Nations or United States command.

(2) PLANNING.—The United States shall facilitate the assumption of the functions of United States forces by the United Nations.

(3) REPORTING REQUIREMENT.—

(A) The President shall ensure that the goals and objectives supporting deployment of United States forces to Somalia and a description of the mission, command arrangements, size, functions, location, and anticipated duration in Somalia of those forces are clearly articulated and provided in a detailed report to the Congress by October 15, 1993.

(B) Such report shall include the status of planning to transfer the function contained in paragraph (2).

(4) CONGRESSIONAL APPROVAL.—Upon reporting under the requirements of paragraph (3) Congress believes the President should by November 15, 1993, seek and receive congressional

[1] 50 U.S.C. 1541 note.

authorization in order for the deployment of United States forces to Somalia to continue.

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## i. United States Military Forces in Lebanon

### (1) Multinational Force in Lebanon Resolution [1]

**Public Law 98–119 [S.J. Res. 159], 97 Stat. 805, approved October 12, 1983**

A JOINT RESOLUTION Providing statutory authorization under the War Powers Resolution for continued United States participation in the multinational peacekeeping force in Lebanon in order to obtain withdrawal of all foreign forces from Lebanon.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

SECTION 1. This joint resolution may be cited as the "Multinational Force in Lebanon Resolution".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) the removal of all foreign forces from Lebanon is an essential United States foreign policy objective in the Middle East;

(2) in order to restore full control by the Government of Lebanon over its own territory, the United States is currently participating in the multinational peacekeeping force (hereafter in this resolution referred to as the "Multinational Force in Lebanon") which was established in accordance with the exchange of letters between the Governments of the United States and Lebanon dated September 25, 1982;

(3) the Multinational Force in Lebanon better enables the Government of Lebanon to establish its unity, independence, and territorial integrity;

(4) progress toward national political reconciliation in Lebanon is necessary; and

(5) United States Armed Forces participating in the Multinational Force in Lebanon are now in hostilities requiring authorization of their continued presence under the War Powers Resolution.

(b) The Congress determines that the requirements of section 4(a)(1) of the War Powers Resolution became operative on August 29, 1983. Consistent with section 5(b) of the War Powers Resolution, the purpose of this joint resolution is to authorize the continued participation of United States Armed Forces in the Multinational Force in Lebanon.

(c) The Congress intends this joint resolution to constitute the necessary specific statutory authorization under the War Powers

[1] 50 U.S.C. 1541 note.

Resolution for continued participation by United States Armed Forces in the Multinational Force in Lebanon.

AUTHORIZATION FOR CONTINUED PARTICIPATION OF UNITED STATES ARMED FORCES IN THE MULTINATIONAL FORCE IN LEBANON

SEC. 3. The President is authorized, for purposes of section 5(b) of the War Powers Resolution, to continue participation by United States Armed Forces in the Multinational Force in Lebanon, subject to the provisions of section 6 of this joint resolution. Such participation shall be limited to performance of the functions, and shall be subject to the limitations, specified in the agreement establishing the Multinational Force in Lebanon as set forth in the exchange of letters between the Governments of the United States and Lebanon dated September 25, 1982, except that this shall not preclude such protective measures as may be necessary to ensure the safety of the Multinational Force in Lebanon.

REPORTS TO THE CONGRESS

SEC. 4. As required by section 4(c) of the War Powers Resolution, the President shall report periodically to the Congress with respect to the situation in Lebanon, but in no event shall he report less often than once every three months. In addition to providing the information required by that section on the status, scope, and duration of hostilities involving United States Armed Forces, such reports shall describe in detail—

(1) the activities being performed by the Multinational Force in Lebanon;

(2) the present composition of the Multinational Force in Lebanon, including a description of the responsibilities and deployment of the armed forces of each participating country;

(3) the results of efforts to reduce and eventually eliminate the Multinational Force in Lebanon;

(4) how continued United States participation in the Multinational Force in Lebanon is advancing United States foreign policy interests in the Middle East; and

(5) what progress has occurred toward national political reconciliation among all Lebanese groups.

STATEMENTS OF POLICY

SEC. 5. (a) The Congress declares that the participation of the armed forces of other countries in the Multinational Force in Lebanon is essential to maintain the international character of the peacekeeping function in Lebanon.

(b) The Congress believes that it should continue to be the policy of the United States to promote continuing discussions with Israel, Syria, and Lebanon with the objective of bringing about the withdrawal of all foreign troops from Lebanon and establishing an environment which will permit the Lebanese Armed Forces to carry out their responsibilities in the Beirut area.

(c) It is the sense of the Congress that, not later than one year after the date of enactment of this joint resolution and at least once a year thereafter, the United States should discuss with the other

members of the Security Council of the United Nations the establishment of a United Nations peacekeeping force to assume the responsibilities of the Multinational Force in Lebanon. An analysis of the implications of the response to such discussions for the continuation of the Multinational Force in Lebanon shall be included in the reports required under paragraph (3) of section 4 of this resolution.

DURATION OF AUTHORIZATION FOR UNITED STATES PARTICIPATION IN THE MULTINATIONAL FORCE IN LEBANON

SEC. 6. The participation of United States Armed Forces in the Multinational Force in Lebanon shall be authorized for purposes of the War Powers Resolution until the end of the eighteen-month period beginning on the date of enactment of this resolution unless the Congress extends such authorization, except that such authorization shall terminate sooner upon the occurrence of any one of the following:

(1) the withdrawal of all foreign forces from Lebanon, unless the President determines and certifies to the Congress that continued United States Armed Forces participation in the Multinational Force in Lebanon is required after such withdrawal in order to accomplish the purposes specified in the September 25, 1982, exchange of letters providing for the establishment of the Multinational Force in Lebanon; or

(2) the assumption by the United Nations or the Government of Lebanon of the responsibilities of the Multinational Force in Lebanon; or

(3) the implementation of other effective security arrangements in the area; or

(4) the withdrawal of all other countries from participation in the Multinational Force in Lebanon.

INTERPRETATION OF THIS RESOLUTION

SEC. 7. (a) Nothing in this joint resolution shall preclude the President from withdrawing United States Armed Forces participation in the Multinational Force in Lebanon if circumstances warrant and nothing in this joint resolution shall preclude the Congress by joint resolution from directing such a withdrawal.

(b) Nothing in this joint resolution modifies, limits, or supersedes any provision of the War Powers Resolution or the requirement of section 4(a) of the Lebanon Emergency Assistance Act of 1983, relating to congressional authorization for any substantial expansion in the number or role of United States Armed Forces in Lebanon.

CONGRESSIONAL PRIORITY PROCEDURES FOR AMENDMENTS

SEC. 8. (a) Any joint resolution or bill introduced to amend or repeal this Act shall be referred to the Committee on Foreign Affairs [2] of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be. Such joint resolution

[2] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

or bill shall be considered by such committee within fifteen calendar days and may be reported out, together with its recommendations, unless such House shall otherwise determine pursuant to its rules.

(b) Any joint resolution or bill so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by the yeas and nays.

(c) Such a joint resolution or bill passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out by such committee together with its recommendations within fifteen calendar days and shall thereupon become the pending business of such House and shall be voted upon within three calendar days, unless such House shall otherwise determine by the yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution or bill passed by both Houses conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such joint resolution within six calendar days after the legislation is referred to the committee of conference. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed. In the event the conferees are unable to agree within forty-eight hours, they shall report back to their respective Houses in disagreement.

**(2) Agreement Between the United States and Lebanon Regarding U.S. Participation in the Multinational Force, Dated September 25, 1982**

Your Excellency: I have the honor to refer to the urgent discussions between representatives of our two Governments concerning the recent tragic events which have occurred in the Beirut area, and to consultations between my Government and the Secretary General of the United Nations pursuant to United Nations Security Council Resolution 521. On behalf of the Republic of Lebanon, I wish to inform your Excellency's Government of the determination of the Government of Lebanon to restore its sovereignty and authority over the Beirut area and thereby to assure the safety of persons in the area and bring an end to violence that has recurred. To this end, Israeli forces will withdraw from the Beirut area.

In its consultations with the Secretary General, the Government of Lebanon has noted that the urgency of the situation requires immediate action and the Government of Lebanon, therefore, is, in conformity with the objectives in U.N. Security Council Resolution 521, proposing to several nations that they contribute forces to serve as a temporary Multinational Force (MNF) in the Beirut area. The mandate of the MNF will be to provide an interposition force at agreed locations and thereby provide the multinational presence requested by the Lebanese Government to assist it and the Lebanese Armed Forces (LAF) in the Beirut area. This presence will facilitate the restoration of Lebanese Government sovereignty and authority over the Beirut area, and thereby further efforts of my Government to assure the safety of persons in the area and bring to an end the violence which has tragically recurred. The MNF may undertake other functions only by mutual agreement.

In the foregoing context, I have the honor to propose that the United States of America deploy a force of approximately 1200 personnel to Beirut, subject to the following terms and conditions:

—The American military force shall carry out appropriate activities consistent with the mandate of the MNF.

—Command authority over the American force will be exercised exclusively by the U.S. Government through existing American military channels.

—The LAF and MNF will form a Liaison and Coordination Committee, composed of representatives of the MNF participating governments and chaired by the representatives of my Government. The Liaison and Coordination Committee will have two essential components: (A) Supervisory liaison; and (B) Military and technical liaison and coordination.

—The American force will operate in close coordination with the LAF. To assure effective coordination with the LAF, the American force will assign liaison officers to the LAF and the Government of Lebanon will assign liaison officers to the American

force. The LAF liaison officers to the American force will, inter alia, perform liaison with the civilian population, and with the U.N. observers and manifest the authority of the Lebanese Government in all appropriate situations. The American force will provide security for LAF personnel operating with the U.S. contingent.

—In carrying out its mission, the American force will not engage in combat. It may, however, exercise the right of self-defense.

—It is understood that the presence of the American force will be needed only for a limited period to meet the urgent requirements posed by the current situation. The MNF contributors and the Government of Lebanon will consult fully concerning the duration of the MNF presence. Arrangements for the departure of the MNF will be the subject of special consultations between the Government of Lebanon and the MNF participating governments. The American force will depart Lebanon upon any request of the Government of Lebanon or upon the decision of the President of the United States.

—The Government of Lebanon and the LAF will take all measures necessary to ensure the protection of the American force's personnel, to include securing assurance from all armed elements not now under the authority of the Lebanese Government that they will refrain from hostilities and not interfere with any activities of the MNF.

—The American force will enjoy both the degree of freedom of movement and the right to undertake those activities deemed necessary for the performance of its mission for the support of its personnel. Accordingly, it shall enjoy the privileges and immunities accorded the administrative and technical staff of the American Embassy in Beirut, and shall be exempt from immigration and customs requirements, and restrictions on entering or departing Lebanon. Personnel, property, and equipment of the American force introduced into Lebanon shall be exempt from any form of tax, duty, charge, or levy.

I have the further honor to propose, if the foregoing is acceptable to your Excellency's Government, that Your Excellency's reply to that effect, together with this note, shall constitute an agreement between our two Governments.

Please accept, Your Excellency, the assurances of my highest consideration.

FOUAD BOUTROS,
*Deputy Prime Minister/Minister of Foreign Affairs.*

*September 25, 1982.*

YOUR EXCELLENCY: I have the honor to refer to your Excellency's note of 25 September 1982 requesting the deployment of an American force to the Beirut area. I am pleased to inform you on behalf of my Government that the United States is prepared to deploy temporarily a force of approximately 1,200 personnel as part of a Multinational Force (MNF) to establish an environment which will permit the Lebanese Armed Forces (LAF) to carry out their responsibilities in the Beirut area. It is understood that the presence of such an American force will facilitate the restoration of Lebanese

Government sovereignty and authority over the Beirut area, an objective which is fully shared by my Government, and thereby further efforts of the Government of Lebanon to assure the safety of persons in the area and bring to an end the violence which has tragically recurred.

I have the further honor to inform you that my Government accepts the terms and conditions concerning the presence of the American force in the Beirut area as set forth in your note, and that Your Excellency's note and this reply accordingly constitute an agreement between our two Governments.

ROBERT DILLON,
*U.S. Ambassador.*

## 2. American Servicemembers' Protection Act of 2002

**Title II of Public Law 107–206 [2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States; H.R. 4775], 116 Stat. 820, approved August 2, 2002; as amended by Public Law 109–364 [John Warner National Defense Authorization Act for Fiscal Year 2007; H.R. 5122], 120 Stat. 2083, approved October 17, 2006; and Public Law 110–181 [National Defense Authorization Act for Fiscal Year 2008; H.R. 4986], 122 Stat. 3, approved January 28, 2008**

AN ACT Making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, * * **

* * * * * * *

## TITLE II—AMERICAN SERVICEMEMBERS' PROTECTION ACT

**SEC. 2001.[1] SHORT TITLE.**

This title may be cited as the "American Servicemembers' Protection Act of 2002".

**SEC. 2002.[2] FINDINGS.**

Congress makes the following findings:

(1) On July 17, 1998, the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, meeting in Rome, Italy, adopted the "Rome Statute of the International Criminal Court". The vote on whether to proceed with the statute was 120 in favor to 7 against, with 21 countries abstaining. The United States voted against final adoption of the Rome Statute.

(2) As of April 30, 2001, 139 countries had signed the Rome Statute and 30 had ratified it. Pursuant to Article 126 of the Rome Statute, the statute will enter into force on the first day of the month after the 60th day following the date on which the 60th country deposits an instrument ratifying the statute.

(3) Since adoption of the Rome Statute, a Preparatory Commission for the International Criminal Court has met regularly to draft documents to implement the Rome Statute, including Rules of Procedure and Evidence, Elements of Crimes, and a definition of the Crime of Aggression.

(4) During testimony before the Congress following the adoption of the Rome Statute, the lead United States negotiator, Ambassador David Scheffer stated that the United States could not sign the Rome Statute because certain critical negotiating objectives of the United States had not been achieved. As

[1] 22 U.S.C. 7401 note.
[2] 22 U.S.C. 7421.

a result, he stated: "We are left with consequences that do not serve the cause of international justice.".

(5) Ambassador Scheffer went on to tell the Congress that: "Multinational peacekeeping forces operating in a country that has joined the treaty can be exposed to the Court's jurisdiction even if the country of the individual peacekeeper has not joined the treaty. Thus, the treaty purports to establish an arrangement whereby United States armed forces operating overseas could be conceivably prosecuted by the international court even if the United States has not agreed to be bound by the treaty. Not only is this contrary to the most fundamental principles of treaty law, it could inhibit the ability of the United States to use its military to meet alliance obligations and participate in multinational operations, including humanitarian interventions to save civilian lives. Other contributors to peacekeeping operations will be similarly exposed.".

(6) Notwithstanding these concerns, President Clinton directed that the United States sign the Rome Statute on December 31, 2000. In a statement issued that day, he stated that in view of the unremedied deficiencies of the Rome Statute, "I will not, and do not recommend that my successor submit the Treaty to the Senate for advice and consent until our fundamental concerns are satisfied".

(7) Any American prosecuted by the International Criminal Court will, under the Rome Statute, be denied procedural protections to which all Americans are entitled under the Bill of Rights to the United States Constitution, such as the right to trial by jury.

(8) Members of the Armed Forces of the United States should be free from the risk of prosecution by the International Criminal Court, especially when they are stationed or deployed around the world to protect the vital national interests of the United States. The United States Government has an obligation to protect the members of its Armed Forces, to the maximum extent possible, against criminal prosecutions carried out by the International Criminal Court.

(9) In addition to exposing members of the Armed Forces of the United States to the risk of international criminal prosecution, the Rome Statute creates a risk that the President and other senior elected and appointed officials of the United States Government may be prosecuted by the International Criminal Court. Particularly if the Preparatory Commission agrees on a definition of the Crime of Aggression over United States objections, senior United States officials may be at risk of criminal prosecution for national security decisions involving such matters as responding to acts of terrorism, preventing the proliferation of weapons of mass destruction, and deterring aggression. No less than members of the Armed Forces of the United States, senior officials of the United States Government should be free from the risk of prosecution by the International Criminal Court, especially with respect to official actions taken by them to protect the national interests of the United States.

(10) Any agreement within the Preparatory Commission on a definition of the Crime of Aggression that usurps the prerogative of the United Nations Security Council under Article 39 of the charter of the United Nations to "determine the existence of any . . . . act of aggression" would contravene the charter of the United Nations and undermine deterrence.

(11) It is a fundamental principle of international law that a treaty is binding upon its parties only and that it does not create obligations for nonparties without their consent to be bound. The United States is not a party to the Rome Statute and will not be bound by any of its terms. The United States will not recognize the jurisdiction of the International Criminal Court over United States nationals.

**SEC. 2003.[3] WAIVER AND TERMINATION OF PROHIBITIONS OF THIS TITLE.**

(a) AUTHORITY TO INITIALLY WAIVE SECTION 2005[4].—The President is authorized to waive the prohibitions and requirements of section 2005[4] for a single period of 1 year. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that the International Criminal Court has entered into a binding agreement that—

(A) prohibits the International Criminal Court from seeking to exercise jurisdiction over the following persons with respect to actions undertaken by them in an official capacity:

(i) covered United States persons;

(ii) covered allied persons; and

(iii) individuals who were covered United States persons or covered allied persons; and

(B) ensures that no person described in subparagraph (A) will be arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court.

(b) AUTHORITY TO EXTEND WAIVER OF SECTION 2005[5].—The President is authorized to waive the prohibitions and requirements of section 2005[5] for successive periods of 1 year each upon the expiration of a previous waiver pursuant to subsection (a) or this subsection. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

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[3] 22 U.S.C. 7422.

[4] Sec. 1212(b)(1)(A)(i) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 371) struck out "SECTIONS 5 AND 7" and inserted in lieu thereof "SECTION 2005" in the heading. Sec. 1212(b)(1)(A)(ii) of that Act struck out "sections 5 and 7" from subsec. (a) and inserted in lieu thereof "section 2005".

[5] Sec. 1212(b)(1)(B)(i) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 371) struck out "SECTIONS 5 AND 7" and inserted in lieu thereof "SECTION 2005" in the heading. Sec. 1212(b)(1)(B)(ii) of that Act struck out "sections 5 and 7" from subsec. (a) and inserted in lieu thereof "section 2005".

(2) determines and reports to the appropriate congressional committees that the International Criminal Court—

(A) remains party to, and has continued to abide by, a binding agreement that—

(i) prohibits the International Criminal Court from seeking to exercise jurisdiction over the following persons with respect to actions undertaken by them in an official capacity:

(I) covered United States persons;

(II) covered allied persons; and

(III) individuals who were covered United States persons or covered allied persons; and

(ii) ensures that no person described in clause (i) will be arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court; and

(B) has taken no steps to arrest, detain, prosecute, or imprison any person described in clause (i) of subparagraph (A).

(c) AUTHORITY TO WAIVE SECTIONS 4 AND 6 WITH RESPECT TO AN INVESTIGATION OR PROSECUTION OF A NAMED INDIVIDUAL.—The President is authorized to waive the prohibitions and requirements of sections 2004 and 2006 to the degree such prohibitions and requirements would prevent United States cooperation with an investigation or prosecution of a named individual by the International Criminal Court. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that—

(A) a waiver pursuant to subsection (a) or (b) of the prohibitions and requirements of section 2005[6] is in effect;

(B) there is reason to believe that the named individual committed the crime or crimes that are the subject of the International Criminal Court's investigation or prosecution;

(C) it is in the national interest of the United States for the International Criminal Court's investigation or prosecution of the named individual to proceed; and

(D) in investigating events related to actions by the named individual, none of the following persons will be investigated, arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court with respect to actions undertaken by them in an official capacity:

(i) Covered United States persons.

(ii) Covered allied persons.

(iii) Individuals who were covered United States persons or covered allied persons.

[6] Sec. 1212(b)(1)(C) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 371) struck out "sections 2005 and 2007" and inserted in lieu thereof "section 2005".

(d) TERMINATION OF WAIVER PURSUANT TO SUBSECTION (c).—Any waiver or waivers exercised pursuant to subsection (c) of the prohibitions and requirements of sections 2004 and 2006 shall terminate at any time that a waiver pursuant to subsection (a) or (b) of the prohibitions and requirements of section 2005[7] expires and is not extended pursuant to subsection (b).

(e) TERMINATION OF PROHIBITIONS OF THIS TITLE.—The prohibitions and requirements of sections 2004, 2005, and 2006[8] shall cease to apply, and the authority of section 2008 shall terminate, if the United States becomes a party to the International Criminal Court pursuant to a treaty made under article II, section 2, clause 2 of the Constitution of the United States.

**SEC. 2004.[9] PROHIBITION ON COOPERATION WITH THE INTERNATIONAL CRIMINAL COURT.**

(a) APPLICATION.—The provisions of this section—

(1) apply only to cooperation with the International Criminal Court and shall not apply to cooperation with an ad hoc international criminal tribunal established by the United Nations Security Council before or after the date of the enactment of this Act to investigate and prosecute war crimes committed in a specific country or during a specific conflict; and

(2) shall not prohibit—

(A) any action permitted under section 2008; or

(B) communication by the United States of its policy with respect to a matter.

(b) PROHIBITION ON RESPONDING TO REQUESTS FOR COOPERATION.—Notwithstanding section 1782 of title 28, United States Code, or any other provision of law, no United States Court, and no agency or entity of any State or local government, including any court, may cooperate with the International Criminal Court in response to a request for cooperation submitted by the International Criminal Court pursuant to the Rome Statute.

(c) PROHIBITION ON TRANSMITTAL OF LETTERS ROGATORY FROM THE INTERNATIONAL CRIMINAL COURT.—Notwithstanding section 1781 of title 28, United States Code, or any other provision of law, no agency of the United States Government may transmit for execution any letter rogatory issued, or other request for cooperation made, by the International Criminal Court to the tribunal, officer, or agency in the United States to whom it is addressed.

(d) PROHIBITION ON EXTRADITION TO THE INTERNATIONAL CRIMINAL COURT.—Notwithstanding any other provision of law, no agency or entity of the United States Government or of any State or local government may extradite any person from the United States to the International Criminal Court, nor support the transfer of any United States citizen or permanent resident alien to the International Criminal Court.

(e) PROHIBITION ON PROVISION OF SUPPORT TO THE INTERNATIONAL CRIMINAL COURT.—Notwithstanding any other provision

[7] Sec. 1212(b)(1)(D) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 371) struck out "sections 2005 and 2007" and inserted in lieu thereof "section 2005".

[8] Sec. 1212(b)(1)(E) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 371) struck out "2006, and 2007" and inserted in lieu thereof "and 2006".

[9] 22 U.S.C. 7423.

of law, no agency or entity of the United States Government or of any State or local government, including any court, may provide support to the International Criminal Court.

(f) PROHIBITION ON USE OF APPROPRIATED FUNDS TO ASSIST THE INTERNATIONAL CRIMINAL COURT.—Notwithstanding any other provision of law, no funds appropriated under any provision of law may be used for the purpose of assisting the investigation, arrest, detention, extradition, or prosecution of any United States citizen or permanent resident alien by the International Criminal Court.

(g) RESTRICTION ON ASSISTANCE PURSUANT TO MUTUAL LEGAL ASSISTANCE TREATIES.—The United States shall exercise its rights to limit the use of assistance provided under all treaties and executive agreements for mutual legal assistance in criminal matters, multilateral conventions with legal assistance provisions, and extradition treaties, to which the United States is a party, and in connection with the execution or issuance of any letter rogatory, to prevent the transfer to, or other use by, the International Criminal Court of any assistance provided by the United States under such treaties and letters rogatory.

(h) PROHIBITION ON INVESTIGATIVE ACTIVITIES OF AGENTS.—No agent of the International Criminal Court may conduct, in the United States or any territory subject to the jurisdiction of the United States, any investigative activity relating to a preliminary inquiry, investigation, prosecution, or other proceeding at the International Criminal Court.

**SEC. 2005.[10] RESTRICTION ON UNITED STATES PARTICIPATION IN CERTAIN UNITED NATIONS PEACEKEEPING OPERATIONS.**

(a) POLICY.—Effective beginning on the date on which the Rome Statute enters into force pursuant to Article 126 of the Rome Statute, the President should use the voice and vote of the United States in the United Nations Security Council to ensure that each resolution of the Security Council authorizing any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations permanently exempts, at a minimum, members of the Armed Forces of the United States participating in such operation from criminal prosecution or other assertion of jurisdiction by the International Criminal Court for actions undertaken by such personnel in connection with the operation.

(b) RESTRICTION.—Members of the Armed Forces of the United States may not participate in any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations, the creation of which is authorized by the United Nations Security Council on or after the date that the Rome Statute enters into effect pursuant to Article 126 of the Rome Statute, unless the President has submitted to the appropriate congressional committees a certification described in subsection (c) with respect to such operation.

(c) CERTIFICATION.—The certification referred to in subsection (b) is a certification by the President that—

[10] 22 U.S.C. 7424.

(1) members of the Armed Forces of the United States are able to participate in the peacekeeping or peace enforcement operation without risk of criminal prosecution or other assertion of jurisdiction by the International Criminal Court because, in authorizing the operation, the United Nations Security Council permanently exempted, at a minimum, members of the Armed Forces of the United States participating in the operation from criminal prosecution or other assertion of jurisdiction by the International Criminal Court for actions undertaken by them in connection with the operation;

(2) members of the Armed Forces of the United States are able to participate in the peacekeeping or peace enforcement operation without risk of criminal prosecution or other assertion of jurisdiction by the International Criminal Court because each country in which members of the Armed Forces of the United States participating in the operation will be present either is not a party to the International Criminal Court and has not invoked the jurisdiction of the International Criminal Court pursuant to Article 12 of the Rome Statute, or has entered into an agreement in accordance with Article 98 of the Rome Statute preventing the International Criminal Court from proceeding against members of the Armed Forces of the United States present in that country; or

(3) the national interests of the United States justify participation by members of the Armed Forces of the United States in the peacekeeping or peace enforcement operation.

**SEC. 2006.[11] PROHIBITION ON DIRECT OR INDIRECT TRANSFER OF CLASSIFIED NATIONAL SECURITY INFORMATION AND LAW ENFORCEMENT INFORMATION TO THE INTERNATIONAL CRIMINAL COURT.**

(a) IN GENERAL.—Not later than the date on which the Rome Statute enters into force, the President shall ensure that appropriate procedures are in place to prevent the transfer of classified national security information and law enforcement information to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution.

(b) INDIRECT TRANSFER.—The procedures adopted pursuant to subsection (a) shall be designed to prevent the transfer to the United Nations and to the government of any country that is party to the International Criminal Court of classified national security information and law enforcement information that specifically relates to matters known to be under investigation or prosecution by the International Criminal Court, except to the degree that satisfactory assurances are received from the United Nations or that government, as the case may be, that such information will not be made available to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution.

(c) CONSTRUCTION.—The provisions of this section shall not be construed to prohibit any action permitted under section 2008.

[11] 22 U.S.C. 7425.

**SEC. 2007.**[12] [Repealed—2008]

**SEC. 2008.**[13] **AUTHORITY TO FREE MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND CERTAIN OTHER PERSONS DETAINED OR IMPRISONED BY OR ON BEHALF OF THE INTERNATIONAL CRIMINAL COURT.**

(a) AUTHORITY.—The President is authorized to use all means necessary and appropriate to bring about the release of any person described in subsection (b) who is being detained or imprisoned by, on behalf of, or at the request of the International Criminal Court.

(b) PERSONS AUTHORIZED TO BE FREED.—The authority of subsection (a) shall extend to the following persons:

(1) Covered United States persons.

(2) Covered allied persons.

(3) Individuals detained or imprisoned for official actions taken while the individual was a covered United States person or a covered allied person, and in the case of a covered allied person, upon the request of such government.

(c) AUTHORIZATION OF LEGAL ASSISTANCE.—When any person described in subsection (b) is arrested, detained, investigated, prosecuted, or imprisoned by, on behalf of, or at the request of the International Criminal Court, the President is authorized to direct any agency of the United States Government to provide—

(1) legal representation and other legal assistance to that person (including, in the case of a person entitled to assistance under section 1037 of title 10, United States Code, representation and other assistance in the manner provided in that section);

(2) exculpatory evidence on behalf of that person; and

(3) defense of the interests of the United States through appearance before the International Criminal Court pursuant to Article 18 or 19 of the Rome Statute, or before the courts or tribunals of any country.

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[12] Formerly 22 U.S.C. 7426. This section prohibited military assistance to governments of countries that are parties to the International Criminal Court. Sec. 1212(a) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 371) repealed sec. 2007. Sec. 671 of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of the Consolidated Appropriations Act, 2008; Public Law 110–161; 121 Stat. 2354) limits economic support fund assistance for states party to the International Criminal Court. Sec. 671 of that Act provides as follows:

"LIMITATION ON ECONOMIC SUPPORT FUND ASSISTANCE FOR CERTAIN FOREIGN GOVERNMENTS THAT ARE PARTIES TO THE INTERNATIONAL CRIMINAL COURT

"SEC. 671. (a) None of the funds made available in this Act under the heading "Economic Support Fund" may be used to provide assistance to the government of a country that is a party to the International Criminal Court and has not entered into an agreement with the United States pursuant to Article 98 of the Rome Statute preventing the International Criminal Court from proceeding against United States personnel present in such country.

"(b) The President may, with prior notice to Congress, waive the prohibition of subsection (a) with respect to a North Atlantic Treaty Organization (NATO) member country, a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand), Taiwan, or such other country as he may determine if he determines and reports to the appropriate congressional committees that it is important to the national interests of the United States to waive such prohibition.

"(c) The President may, with prior notice to Congress, waive the prohibition of subsection (a) with respect to a particular country if he determines and reports to the appropriate congressional committees that such country has entered into an agreement with the United States pursuant to Article 98 of the Rome Statute preventing the International Criminal Court from proceeding against United States personnel present in such country.

"(d) The prohibition of this section shall not apply to countries otherwise eligible for assistance under the Millennium Challenge Act of 2003, notwithstanding section 606(a)(2)(B) of such Act.".

[13] 22 U.S.C. 7427.

(d) BRIBES AND OTHER INDUCEMENTS NOT AUTHORIZED.—This section does not authorize the payment of bribes or the provision of other such incentives to induce the release of a person described in subsection (b).

**SEC. 2009.[14] ALLIANCE COMMAND ARRANGEMENTS.**

(a) REPORT ON ALLIANCE COMMAND ARRANGEMENTS.—Not later than 6 months after the date of the enactment of this Act, the President should transmit to the appropriate congressional committees a report with respect to each military alliance to which the United States is party—

(1) describing the degree to which members of the Armed Forces of the United States may, in the context of military operations undertaken by or pursuant to that alliance, be placed under the command or operational control of foreign military officers subject to the jurisdiction of the International Criminal Court because they are nationals of a party to the International Criminal Court; and

(2) evaluating the degree to which members of the Armed Forces of the United States engaged in military operations undertaken by or pursuant to that alliance may be exposed to greater risks as a result of being placed under the command or operational control of foreign military officers subject to the jurisdiction of the International Criminal Court.

(b) DESCRIPTION OF MEASURES TO ACHIEVE ENHANCED PROTECTION FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES.—Not later than 1 year after the date of the enactment of this Act, the President should transmit to the appropriate congressional committees a description of modifications to command and operational control arrangements within military alliances to which the United States is a party that could be made in order to reduce any risks to members of the Armed Forces of the United States identified pursuant to subsection (a)(2).

(c) SUBMISSION IN CLASSIFIED FORM.—The report under subsection (a), and the description of measures under subsection (b), or appropriate parts thereof, may be submitted in classified form.

**SEC. 2010.[15] WITHHOLDINGS.**

Funds withheld from the United States share of assessments to the United Nations or any other international organization during any fiscal year pursuant to section 705 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted by section 1000(a)(7) of Public Law 106–113; 113 Stat. 1501A–460), are authorized to be transferred to the Embassy Security, Construction and Maintenance Account of the Department of State.

**SEC. 2011.[16] APPLICATION OF SECTIONS 2004 AND 2006 TO EXERCISE OF CONSTITUTIONAL AUTHORITIES.**

(a) IN GENERAL.—Sections 2004 and 2006 shall not apply to any action or actions with respect to a specific matter involving the International Criminal Court taken or directed by the President on a case-by-case basis in the exercise of the President's authority as

[14] 22 U.S.C. 7428.
[15] 22 U.S.C. 7429.
[16] 22 U.S.C. 7430.

Commander in Chief of the Armed Forces of the United States under article II, section 2 of the United States Constitution or in the exercise of the executive power under article II, section 1 of the United States Constitution.

(b) NOTIFICATION TO CONGRESS.—

(1) IN GENERAL.—Subject to paragraph (2), not later than 15 days after the President takes or directs an action or actions described in subsection (a) that would otherwise be prohibited under section 2004 or 2006, the President shall submit a notification of such action to the appropriate congressional committees. A notification under this paragraph shall include a description of the action, a determination that the action is in the national interest of the United States, and a justification for the action.

(2) EXCEPTION.—If the President determines that a full notification under paragraph (1) could jeopardize the national security of the United States or compromise a United States law enforcement activity, not later than 15 days after the President takes or directs an action or actions referred to in paragraph (1) the President shall notify the appropriate congressional committees that an action has been taken and a determination has been made pursuant to this paragraph. The President shall provide a full notification under paragraph (1) not later than 15 days after the reasons for the determination under this paragraph no longer apply.

(c) CONSTRUCTION.—Nothing in this section shall be construed as a grant of statutory authority to the President to take any action.

**SEC. 2012.[17] NONDELEGATION.**

The authorities vested in the President by sections 2003 and 2011(a) may not be delegated by the President pursuant to section 301 of title 3, United States Code, or any other provision of law. The authority vested in the President by section 2005(c)(3) may not be delegated by the President pursuant to section 301 of title 3, United States Code, or any other provision of law to any official other than the Secretary of Defense, and if so delegated may not be subdelegated.

**SEC. 2013.[18] DEFINITIONS.**

As used in this title and in section 706 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) CLASSIFIED NATIONAL SECURITY INFORMATION.—The term "classified national security information" means information that is classified or classifiable under Executive Order 12958 or a successor Executive order.

(3) COVERED ALLIED PERSONS.—The term "covered allied persons" means military personnel, elected or appointed officials,

[17] 22 U.S.C. 7431.
[18] 22 U.S.C. 7432.

and other persons employed by or working on behalf of the government of a NATO member country, a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand), or Taiwan, for so long as that government is not a party to the International Criminal Court and wishes its officials and other persons working on its behalf to be exempted from the jurisdiction of the International Criminal Court.

(4) COVERED UNITED STATES PERSONS.—The term "covered United States persons" means members of the Armed Forces of the United States, elected or appointed officials of the United States Government, and other persons employed by or working on behalf of the United States Government, for so long as the United States is not a party to the International Criminal Court.

(5) EXTRADITION.—The terms "extradition" and "extradite" mean the extradition of a person in accordance with the provisions of chapter 209 of title 18, United States Code, (including section 3181(b) of such title) and such terms include both extradition and surrender as those terms are defined in Article 102 of the Rome Statute.

(6) INTERNATIONAL CRIMINAL COURT.—The term "International Criminal Court" means the court established by the Rome Statute.

(7) MAJOR NON-NATO ALLY.—The term "major non-NATO ally" means a country that has been so designated in accordance with section 517 of the Foreign Assistance Act of 1961.

(8) PARTICIPATE IN ANY PEACEKEEPING OPERATION UNDER CHAPTER VI OF THE CHARTER OF THE UNITED NATIONS OR PEACE ENFORCEMENT OPERATION UNDER CHAPTER VII OF THE CHARTER OF THE UNITED NATIONS.—The term "participate in any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations" means to assign members of the Armed Forces of the United States to a United Nations military command structure as part of a peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations in which those members of the Armed Forces of the United States are subject to the command or operational control of one or more foreign military officers not appointed in conformity with article II, section 2, clause 2 of the Constitution of the United States.

(9) PARTY TO THE INTERNATIONAL CRIMINAL COURT.—The term "party to the International Criminal Court" means a government that has deposited an instrument of ratification, acceptance, approval, or accession to the Rome Statute, and has not withdrawn from the Rome Statute pursuant to Article 127 thereof.

(10) PEACEKEEPING OPERATION UNDER CHAPTER VI OF THE CHARTER OF THE UNITED NATIONS OR PEACE ENFORCEMENT OPERATION UNDER CHAPTER VII OF THE CHARTER OF THE UNITED NATIONS.—The term "peacekeeping operation under chapter VI

of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations" means any military operation to maintain or restore international peace and security that—

(A) is authorized by the United Nations Security Council under chapter VI or VII of the charter of the United Nations; and

(B) is paid for from assessed contributions of United Nations members that are made available for peacekeeping or peace enforcement activities.

(11) ROME STATUTE.—The term "Rome Statute" means the Rome Statute of the International Criminal Court, adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on July 17, 1998.

(12)[19] SUPPORT.—The term "support" means assistance of any kind, including financial support, transfer of property or other material support, services, intelligence sharing, law enforcement cooperation, the training or detail of personnel, and the arrest or detention of individuals.

**SEC. 2014. REPEAL OF LIMITATION.**

The Department of Defense Appropriations Act, 2002 (division A of Public Law 107–117) is amended by striking section 8173.

**SEC. 2015.[20] ASSISTANCE TO INTERNATIONAL EFFORTS.**

Nothing in this title shall prohibit the United States from rendering assistance to international efforts to bring to justice Saddam Hussein, Slobodan Milosovic, Osama bin Laden, other members of Al Queda, leaders of Islamic Jihad, and other foreign nationals accused of genocide, war crimes or crimes against humanity.

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[19] Sec. 1212(b)(2) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 371) struck out para. (13) of this section. The paragraph formerly read as follows:

"(13) UNITED STATES MILITARY ASSISTANCE.—The term 'United States military assistance' means—

"(A) assistance provided under chapter 2 or 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.); or

"(B) defense articles or defense services furnished with the financial assistance of the United States Government, including through loans and guarantees, under section 23 of the Arms Export Control Act (22 U.S.C. 2763).".

[20] 22 U.S.C. 7433.

## 3. Cuban Resolution

**Public Law 87–733 [S.J. Res. 230], 76 Stat. 697, approved October 3, 1962** [1]

JOINT RESOLUTION Expressing the determination of the United States with respect to the situation in Cuba.

Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers to "extend their system to any portion of this hemisphere as dangerous to our peace and safety"; and

Whereas in the Rio Treaty of 1947 the parties agreed that "an armed attack by any State against an American State shall be considered as an attack against all the American States, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations"; and

Whereas the Foreign Ministers of the Organization of American States at Punta del Este in January 1962 declared: "the present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extracontinental Communist powers, including even the threat of military intervention in America on the part of the Soviet Union"; and

Whereas the International Communist movement has increasingly extended into Cuba its political, economic, and military sphere of influence: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the United States is determined—

(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force, its aggressive or subversive activities to any part of this hemisphere;

(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination.

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[1] See also the Supplemental Appropriations Act, 1982 (Public Law 97–257; 96 Stat. 833), under the heading "CARIBBEAN BASIN INITIATIVE", which states that no funds may be obligated or expended in a manner inconsistent with Public Law 87–733. See also sec. 1543 of the Department of Defense Authorization Act, 1985 (Public Law 98–525; 98 Stat. 2639), which reaffirmed Public Law 87–733.

## 4. Middle East Resolutions and Related Material [1]

### a. Resolution to Promote Peace and Stability in the Middle East

**Public Law 85–7 [H.J. Res. 117], 71 Stat. 5, approved March 9, 1957; as amended by Public Law 87–195 [Foreign Assistance Act of 1961, S. 1983], 75 Stat. 424, approved September 4, 1961**

JOINT RESOLUTION To promote peace and stability in the Middle East.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President be and hereby is authorized to cooperate with and assist any nation or group of nations in the general area of the Middle East desiring such assistance in the development of economic strength dedicated to the maintenance of national independence.

SEC. 2.[2] The President is authorized to undertake, in the general area of the Middle East, military assistance programs with any nation or group of nations of that area desiring such assistance. Furthermore, the United States regards as vital to the national interest and world peace the preservation of the independence and integrity of the nations of the Middle East. To this end, if the President determines the necessity thereof, the United States is prepared to use armed forces to assist any nation or group of such nations requesting assistance against armed aggression from any country controlled by international communism: *Provided,* That such employment shall be consonant with the treaty obligations of the United States and with the Constitution of the United States.

SEC. 3.[3] The President is hereby authorized to use during the balance of fiscal year 1957 for economic and military assistance under this joint resolution not to exceed $200,000,000 from any appropriation now available for carrying out the provisions of the Mutual Security Act of 1954, as amended, in accord with the provisions of such Act: *Provided,* That, whenever the President determines it to be important to the security of the United States, such

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[1] See also legislation under War Powers.

[2] 22 U.S.C. 1961. Sec. 103(c) of the FRIENDSHIP Act (Public Law 103–199; 107 Stat. 2320), relating to statutory provisions applicable to the Soviet Union, provided the following:

"(c) FINDINGS AND AFFIRMATION.—The Congress finds and affirms that provisions such as those described in this section, including—

"(1)–(7) * * *

"(8) section 2 of the joint resolution entitled "A joint resolution to promote peace and stability in the Middle East", approved March 9, 1957 (Public Law 85–7) * * *

"(9) * * *

"should not be construed as being directed against Russia, Ukraine, or the other independent states of the former Soviet Union, connoting an adversarial relationship between the United States and the independent states, or signifying or implying in any manner unfriendliness toward the independent states.".

For complete list of related statutes, see sec. 103 of the FRIENDSHIP Act, in *Legislation on Foreign Relations Through 2008*, vol. I–B.

[3] 22 U.S.C. 1962.

use may be under the authority of section 401(a) of the Mutual Security Act of 1954, as amended (except that the provisions of section 105(a) thereof shall not be waived), and without regard to the provisions of section 105 of the Mutual Security Appropriation Act, 1957: *Provided, further,* That obligations incurred in carrying out the purposes of the first sentence of section 2 of this joint resolution shall be paid only out of appropriations for military assistance, and obligations incurred in carrying out the purposes of the first section of this joint resolution shall be paid only out of appropriations other than those for military assistance. This authorization is in addition to other existing authorizations with respect to the use of such appropriations. None of the additional authorizations contained in this section shall be used until fifteen days after the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, the Committees on Appropriations of the Senate and the House of Representatives and, when military assistance is involved, the Committees on Armed Services of the Senate and the House of Representatives[4] have been furnished a report showing the object of the proposed use, the country for the benefit of which such use is intended, and the particular appropriation or appropriations for carrying out the provisions of the Mutual Security Act of 1954, as amended, from which the funds are proposed to be derived: *Provided,* That funds available under this section during the balance of fiscal year 1957 shall, in the case of any such report submitted during the last fifteen days of the fiscal year, remain available for use under this section for the purposes stated in such report for a period of twenty days following the date of submission of such report. Nothing contained in this joint resolution shall be construed as itself authorizing the appropriation of additional funds for the purpose of carrying out the provisions of the first section or of the first sentence of section 2 of this joint resolution.

SEC. 4.[5] The President should continue to furnish facilities and military assistance, within the provisions of applicable law and established policies, to the United Nations Emergency Force in the Middle East, with a view to maintaining the truce in that region.

SEC. 5.[6] The President shall whenever appropriate[7] report to the Congress his action hereunder.

SEC. 6.[8] This joint resolution shall expire when the President shall determine that the peace and security of the nations in the general area of the Middle East are reasonably assured by international conditions created by action of the United Nations or otherwise except that it may be terminated earlier by a concurrent resolution of the two Houses of Congress.

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[4] Sec. 1(a)(1) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Armed Services of the House of Representatives shall be treated as referring to the Committee on National Security of the House of Representatives. Sec. 1(a)(5) of that Act provided that references to the Committee on Foreign Affairs shall be treated as referring to the Committee on International Relations.

[5] 22 U.S.C. 1963.

[6] 22 U.S.C. 1964.

[7] Sec. 705 of the Foreign Assistance Act of 1961 (Public Law 87–195) struck out "within the months of January and July of each year" and inserted in lieu thereof "whenever appropriate".

[8] 22 U.S.C. 1965.

## b. Multinational Force and Observers Participation Resolution

**Public Law 97–132 [S.J. Res. 100], 95 Stat. 1693, approved December 29, 1981; as amended by Public Law 107–107 [National Defense Authorization Act for Fiscal Year 2002; S. 1438], 115 Stat. 1012, approved December 28, 2001**

A JOINT RESOLUTION To authorize the participation of the United States in a multinational force and observers to implement the Treaty of Peace between Egypt and Israel.

Whereas the Treaty of Peace between Egypt and Israel signed on March 26, 1979, calls for the supervision of security arrangements to be undertaken by United Nations forces and observers; and

Whereas the United Nations has been unable to assume those responsibilities at this time; and

Whereas a Protocol signed on August 3, 1981, by the Government of the Arab Republic of Egypt and the Government of the State of Israel provides for the creation of an alternative Multinational Force and Observers to implement the Treaty of Peace; and

Whereas the Government of the Arab Republic of Egypt and the Government of the State of Israel have requested that the United States participate in the Multinational Force and Observers: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

SECTION 1. This joint resolution may be cited as the "Multinational Force and Observers Participation Resolution".

STATEMENT OF POLICY

SEC. 2.[1] The Congress considers the establishment of the Multinational Force and Observers to be an essential stage in the development of a comprehensive settlement in the Middle East. The Congress enacts this resolution with the hope and expectation that establishment of the Multinational Force and Observers will assist Egypt and Israel in fulfilling the Camp David accords and bring about the establishment of a self-governing authority in order to provide full autonomy in the West Bank and Gaza.

[1] 22 U.S.C. 3421.

PARTICIPATION OF UNITED STATES PERSONNEL IN THE MULTINATIONAL FORCE AND OBSERVERS

SEC. 3.[2] (a)(1) Subject to the limitations contained in this resolution, the President is authorized to assign, under such terms and conditions as he may determine, members of the United States Armed Forces to participate in the Multinational Force and Observers.

(2) The Congress declares that the participation of the military personnel of other countries in the Multinational Force and Observers is essential to maintain the international character of the peacekeeping function in the Sinai: Accordingly—

(A) before the President assigns or details members of the United States Armed Forces to the Multinational Force and Observers, he shall notify the Congress of the names of the other countries that have agreed to provide military personnel for the Multinational Force and Observers, the number of military personnel to be provided by each country, and the functions to be performed by such personnel; and

(B) if a country withdraws from the Multinational Force and Observers with the result that the military personnel of less than four foreign countries remain, every possible effort must be made by the United States to find promptly a country to replace that country.

(3) Members of the United States Armed Forces, and United States civilian personnel, who are assigned, detailed or otherwise provided to the Multinational Force and Observers may perform only those functions or responsibilities which are specified for United Nations Forces and Observers in the Treaty of Peace and in accordance with the Protocol.

(4) The number of members of the United States Armed Forces who are assigned or detailed by the United States Government to the Multinational Force and Observers may not exceed 1,200 at any one time.

(b) Subject to the limitations contained in this resolution, the President is authorized to provide, under such terms and conditions as he may determine, United States civilian personnel to participate as observers in the Multinational Force and Observers.

(c) The status of United States Government personnel assigned to the Multinational Force and Observers under subsection (a)(1) or (b) of this section shall be as provided in section 629 of the Foreign Assistance Act of 1961.

UNITED STATES CONTRIBUTIONS TO COSTS

SEC. 4.[3] (a) In accordance with the agreement set forth in the exchanges of letters between the United States and Egypt and between the United States and Israel which were signed on August 3, 1981, the United States share of the costs of the Multinational Force and Observers—

(1) shall not exceed 60 percent of the budget for the expenses connected with the establishment and initial operation of the

[2] 22 U.S.C. 3422.
[3] 22 U.S.C. 3423.

Multinational Force and Observers during the period ending September 30, 1982; and

(2) shall not exceed 33⅓ percent of the budget for the annual operating expenses of the Multinational Force and Observers for each financial year beginning after that date.

(b)(1) There are authorized to be appropriated to the President to carry out chapter 6 of part II of the Foreign Assistance Act of 1961, in addition to amounts otherwise available to carry out that chapter, $125,000,000 for the fiscal year 1982 for use in paying the United States contribution to the budget of the Multinational Force and Observers. Amounts appropriated under this subsection[4] are authorized to remain available until expended.

(2) Expenditures made pursuant to section 138 of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1982, and for other purposes", approved October 1, 1981 (Public Law 97–51), or pursuant to any subsequent corresponding provision applicable to the fiscal year 1982, shall be charged to the appropriation authorized by this subsection.

(c) Unless required by law, reimbursements to the United States by the Multinational Force and Observers shall be on the basis of identifiable costs actually incurred as a result of requirements imposed by the Multinational Force and Observers, and shall not include administrative surcharges.

NONREIMBURSED COSTS

SEC. 5.[5] (a) Any agency of the United States Government is authorized to provide administrative and technical support and services to the Multinational Force and Observers, without reimbursement and upon such terms and conditions as the President may direct, when the provision of such support or services would not result in significant incremental costs to the United States.

(b) The provision by the United States to the Multinational Force and Observers under the authority of this resolution or any other law of any property, support, or services, including the provision of military and civilian personnel under section 3 of this resolution, on other than a reimbursable basis, shall be kept to a minimum.

(c) The President may provide military training to members of the armed forces of other countries participating in the Multinational Force and Observers.

(d)(1)[6] The United States may use contractors to provide logistical support to the Multinational Force and Observers under this section in lieu of providing such support through a logistical support unit comprised of members of the United States Armed Forces.

(2) Notwithstanding subsections (a) and (b) and section 7(b), support by a contractor under this subsection may be provided without

[4] Sec. 138 of Public Law 97–51 (95 Stat. 967), making continuing appropriations for fiscal year 1982, provided $125 million in appropriations for U.S. participation in the Multinational Force and Observers.

[5] 22 U.S.C. 3424.

[6] Sec. 1211 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1248) added subsec. (d) to sec. 5.

reimbursement whenever the President determines that such action enhances or supports the national security interests of the United States.

REPORTS TO THE CONGRESS [7]

SEC. 6.[8] (a) Not later than April 30, 1982, the President shall transmit to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, a detailed written report with respect to the period ending two weeks prior to that date which contains the information specified in subsection (b).

(b) Not later than January 15 of each year (beginning in 1983), the President shall transmit to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, a written report which describes—

(1) the activities performed by the Multinational Force and Observers during the preceding year;

(2) the composition of the Multinational Force and Observers, including a description of the responsibilities and deployment of the military personnel of each participating country;

(3) all costs incurred by the United States Government (including both normal and incremental costs), set forth by category, which are associated with the United States relationship with the Multinational Force and Observers and which were incurred during the preceding fiscal year (whether or not the United States was reimbursed for those costs), specifically including but not limited to—

(A) the costs associated with the United States units and personnel participating in the Multinational Force and Observers (including salaries, allowances, retirement and other benefits, transportation, housing, and operating and maintenance costs), and

(B) the identifiable costs relating to property, support, and services provided by the United States to the Multinational Force and Observers;

(4) the costs which the United States Government would have incurred in maintaining in the United States those United States units and personnel participating in the Multinational Force and Observers;

(5) amounts received by the United States Government from the Multinational Force and Observers as reimbursement;

(6) the types of property, support, or services provided to the Multinational Force and Observers by the United States Government, including identification of the types of property, support, or services provided on a nonreimbursable basis; and

(7) the results of any discussions with Egypt and Israel regarding the future of the Multinational Force and Observers and its possible reduction or elimination.

[7] Pursuant to Executive Order 12361 (47 F.R. 18313; April 29, 1982), the reporting functions required under this section were delegated to the Secretary of State. Such Executive Order further instructed the Secretary to consult with the Director of OMB, the Secretary of Defense, the Director of ACDA, the Assistant to the President for National Security Affairs, and the heads of other Executive agencies, as appropriate, in exercising this responsibility.

[8] 22 U.S.C. 3425.

(c)(1) The reports required by this section shall be as detailed as possible.

(2) The information pursuant to subsection (b)(3) shall, in the case of costs which are not identifiable, be set forth with reasonable accuracy.

(3) The information with respect to any administrative and technical support and services provided on a nonreimbursed basis under section 5(a) of this resolution shall include a description of the types of support and services which have been provided and an estimate of both the total costs of such support and services and the incremental costs incurred by the United States with respect to such support and services.

STATEMENTS OF CONGRESSIONAL INTENT

SEC. 7.[9] (a) Nothing in this resolution is intended to signify approval by the Congress of any agreement, understanding, or commitment made by the Executive branch other than the agreement to participate in the Multinational Force and Observers as set forth in the exchanges of letters between the United States and Egypt and between the United States and Israel which were signed on August 3, 1981.

(b) The limitations contained in this resolution with respect to United States participation in the Multinational Force and Observers apply to the exercise of the authorities provided by this resolution or provided by any other provision of law. No funds appropriated by the Congress may be obligated or expended for any activity which is contrary to the limitations contained in this resolution.

(c) Nothing in this resolution shall affect the responsibilities of the President or the Congress under the War Powers Resolution (Public Law 93–148).

DEFINITIONS

SEC. 8.[10] As used in this resolution—

(1) the term "Multinational Force and Observers" means the Multinational Force and Observers established in accordance with the Protocol between Egypt and Israel signed on August 3, 1981, relating to the implementation of the security arrangements of the Treaty of Peace; and

(2) the term "Treaty of Peace" means the Treaty of Peace between the Arab Republic and Egypt and the State of Israel signed on March 26, 1979, including the Annexes thereto.

[9] 22 U.S.C. 3426.
[10] 22 U.S.C. 3427.

## c. Multinational Force and Observers Reports

**Executive Order 12361, April 27, 1982, 47 F.R. 18313, 22 U.S.C. 3425 note**

By the authority vested in me as President of the United States of America by the Multinational Force and Observers Participation Resolution (Public Law 97–132, 95 Stat. 1693) and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

**Section 1.** *Delegation of Functions.* The reporting function conferred upon the President by Section 6 of the Multinational Force and Observers Participation Resolution (22 U.S.C. 3425) is delegated to the Secretary of State.

**Sec. 2.** *Interagency Coordination.* In the exercise of the function conferred on the Secretary of State by Section 1 of this Order, the Secretary of State shall consult with the Director of the Office of Management and Budget, the Secretary of Defense, the Director of the United States Arms Control and Disarmament Agency, the Assistant to the President for National Security Affairs, and the heads of other Executive agencies as appropriate.

## d. Implementing the United States Proposal for the Early-Warning System in Sinai

**Public Law 94–110 [H.J. Res. 683], 89 Stat. 572, approved October 13, 1975** [1]

JOINT RESOLUTION To implement the United States proposal for the early-warning system in Sinai.

Whereas an agreement signed on September 4, 1975, by the Government of the Arab Republic of Egypt and the Government of Israel may, when it enters into force, constitute a significant step toward peace in the Middle East;

Whereas the President of the United States on September 1, 1975, transmitted to the Government of the Arab Republic of Egypt and to the Government of Israel identical proposals for United States participation in an early-warning system, the text of which has been submitted to the Congress, providing for the assignment of no more than two hundred United States civilian personnel to carry out certain specified noncombat functions and setting forth the terms and conditions thereof;

Whereas that proposal would permit the Government of the United States to withdraw such personnel if it concludes that their safety is jeopardized or that continuation of their role is no longer necessary; and

Whereas the implementation of the United States proposal for the early-warning system in Sinai may enhance the prospect of compliance in good faith with the terms of the Egyptian-Israeli agreements and thereby promote the cause of peace: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President is authorized to implement the "United States Proposal for the Early Warning System in Sinai": *Provided, however,* That United States civilian personnel assigned to Sinai under such proposal shall be removed immediately in the event of an outbreak of hostilities between Egypt and Israel or if the Congress by concurrent resolution determines that the safety of such personnel is jeopardized or that continuation of their role is no longer necessary. Nothing contained in this resolution shall be construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this joint resolution.

SEC. 2. Any concurrent resolution of the type described in the first section of this resolution which is introduced in either House of Congress shall be privileged in the same manner and to the

[1] 22 U.S.C. 2348 note.

same extent as a concurrent resolution of the type described in section 5(c) of Public Law 93–148 is privileged under section 7 of such law.[2]

SEC. 3. The United States civilian personnel participating in the early warning system in Sinai shall include only individuals who have volunteered to participate in such system.

SEC. 4. Whenever United States civilian personnel, pursuant to this resolution, participate in an early warning system, the President shall, so long as the participation of such personnel continues, submit written reports to the Congress periodically, but no less frequently than once every six months, on (1) the status, scope, and anticipated duration of their participation, and (2) the feasibility of ending or reducing as soon as possible their participation by substituting nationals of other countries or by making technological changes. The appropriate committees of the Congress shall promptly hold hearings on each report of the President and report to the Congress any findings, conclusions, and recommendations.

SEC. 5. The authority contained in this joint resolution to implement the "United States Proposal for the Early Warning System in Sinai" does not signify approval of the Congress of any other agreement, understanding, or commitment made by the executive branch.

[2] 50 U.S.C. 1544, 1546. War Powers Resolution.

## 5. Tonkin Gulf Resolution

**Public Law 88–408 [H.J. Res. 1145], 78 Stat. 384, approved August 10, 1964**

A JOINT RESOLUTION To promote the maintenance of international peace and security in Southeast Asia.

[Whereas naval units of the Communist regime in Vietnam, in violation of the principles of the Charter of the United Nations and of international law, have deliberately and repeatedly attacked United States naval vessels lawfully present in international waters, and have thereby created a serious threat to international peace; and

[Whereas these attacks are part of a deliberate and systematic campaign of aggression that the Communist regime in North Vietnam has been waging against its neighbors and the nations joined with them in the collective defense of their freedom; and

[Whereas the United States is assisting the peoples of southeast Asia to protect their freedom and has no territorial, military or political ambitions in that area, but desires only that these peoples should be left in peace to work out their own destinies in their own way: Now, therefore, be it

[*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression.

[SEC. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

[SEC. 3. This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, except that it may be terminated earlier by concurrent resolution of the Congress.]

NOTE.—Sec. 12 of Public Law 91–672, the Foreign Military Sales Act Amendments, approved January 12, 1971, provided that the joint resolution should terminate effective on the day that the second session of the Ninety-first Congress was last adjourned, such day being January 2, 1971. See *Legislation on Foreign Relations Through 2008*, vol. I–A. See also S. Con. Res. 64, passed July 10, 1970.

## 6. National Commitment

**Senate Resolution 85, 91st Congress, Report No. 91–129, agreed to June 25, 1969**

RESOLUTION

Whereas accurate definition of the term "national commitment" in recent years has become obscured: Now, therefore, be it

*Resolved,* That (1) a national commitment for the purpose of this resolution means the use of the Armed Forces of the United States on foreign territory, or a promise to assist a foreign country, government, or people by the use of the Armed Forces or financial resources of the United States, either immediately or upon the happening of certain events, and (2) it is the sense of the Senate that a national commitment by the United States results only from affirmative action taken by the executive and legislative branches of the United States Government by means of a treaty, statute, or concurrent resolution of both Houses of Congress specifically providing for such commitment.

## 7. North Atlantic Alliance

### a. NATO Freedom Consolidation Act of 2007 [1]

**Public Law 110–17 [S. 494], 121 Stat. 73, approved April 9, 2007**

AN ACT To endorse further enlargement of the North Atlantic Treaty Organization (NATO) and to facilitate the timely admission of new members to NATO, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "NATO Freedom Consolidation Act of 2007".

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) The sustained commitment of the North Atlantic Treaty Organization (NATO) to mutual defense has made possible the democratic transformation of Central and Eastern Europe. Members of the North Atlantic Treaty Organization can and should play a critical role in addressing the security challenges of the post-Cold War era in creating the stable environment needed for those emerging democracies in Europe.

(2) Lasting stability and security in Europe requires the military, economic, and political integration of emerging democracies into existing European structures.

(3) In an era of threats from terrorism and the proliferation of weapons of mass destruction, the North Atlantic Treaty Organization is increasingly contributing to security in the face of global security challenges for the protection and interests of its member states.

(4) In the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note), Congress declared that "full and active participants in the Partnership for Peace in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area should be invited to become full NATO members in accordance with Article 10 of such Treaty at an early date . . .".

(5) In the NATO Enlargement Facilitation Act of 1996 (title VI of section 101(c) of title I of division A of Public Law 104–208; 22 U.S.C. 1928 note), Congress called for the prompt admission of Poland, Hungary, the Czech Republic, and Slovenia to the North Atlantic Treaty Organization, and declared that "in order to promote economic stability and security in Slovakia, Estonia, Latvia, Lithuania, Romania, Bulgaria, Albania, Moldova, and Ukraine . . . the process of enlarging NATO to

[1] 22 U.S.C. 1928 note.

include emerging democracies in Central and Eastern Europe should not be limited to consideration of admitting Poland, Hungary, the Czech Republic, and Slovenia as full members of the NATO Alliance".

(6) In the European Security Act of 1998 (title XXVII of division G of Public Law 105–277; 22 U.S.C. 1928 note), Congress declared that "Poland, Hungary, and the Czech Republic should not be the last emerging democracies in Central and Eastern Europe invited to join NATO" and that "Romania, Estonia, Latvia, Lithuania, and Bulgaria . . . would make an outstanding contribution to furthering the goals of NATO and enhancing stability, freedom, and peace in Europe should they become NATO members [and] upon complete satisfaction of all relevant criteria should be invited to become full NATO members at the earliest possible date".

(7) In the Gerald B. H. Solomon Freedom Consolidation Act of 2002 (Public Law 107–187; 22 U.S.C. 1928 note), Congress endorsed ". . . the vision of further enlargement of the NATO Alliance articulated by President George W. Bush on June 15, 2001, and by former President William J. Clinton on October 22, 1996".

(8) At the Madrid Summit of the North Atlantic Treaty Organization in July 1997, Poland, Hungary, and the Czech Republic were invited to join the Alliance, and the North Atlantic Treaty Organization heads of state and government issued a declaration stating "[t]he alliance expects to extend further invitations in coming years to nations willing and able to assume the responsibilities and obligations of membership . . . [n]o European democratic country whose admission would fulfill the objectives of the [North Atlantic] Treaty will be excluded from consideration".

(9) At the Washington Summit of the North Atlantic Treaty Organization in April 1999, the North Atlantic Treaty Organization heads of state and government issued a communique' declaring "[w]e pledge that NATO will continue to welcome new members in a position to further the principles of the [North Atlantic] Treaty and contribute to peace and security in the Euro-Atlantic area . . . [t]he three new members will not be the last . . . [n]o European democratic country whose admission would fulfill the objectives of the Treaty will be excluded from consideration, regardless of its geographic location . . .".

(10) In May 2000 in Vilnius, Lithuania, the foreign ministers of Albania, Bulgaria, Estonia, Latvia, Lithuania, the Republic of Macedonia (FYROM), Romania, Slovakia, and Slovenia issued a statement (later joined by Croatia) declaring that—

(A) their countries will cooperate in jointly seeking membership in the North Atlantic Treaty Organization in the next round of enlargement of the North Atlantic Treaty Organization;

(B) the realization of membership in the North Atlantic Treaty Organization by one or more of these countries would be a success for all; and

(C) eventual membership in the North Atlantic Treaty Organization for all of these countries would be a success for Europe and for the North Atlantic Treaty Organization.

(11) On June 15, 2001, in a speech in Warsaw, Poland, President George W. Bush stated "[a]ll of Europe's new democracies, from the Baltic to the Black Sea and all that lie between, should have the same chance for security and freedom—andthe same chance to join the institutions of Europe—as Europe's old democracies have . . . I believe in NATO membership for all of Europe's democracies that seek it and are ready to share the responsibilities that NATO brings . . . [a]s we plan to enlarge NATO, no nation should be used as a pawn in the agenda of others . . . [w]e will not trade away the fate of free European peoples . . . [n]o more Munichs . . . [n]o more Yaltas . . . [a]s we plan the Prague Summit, we should not calculate how little we can get away with, but how much we can do to advance the cause of freedom".

(12) On October 22, 1996, in a speech in Detroit, Michigan, former President William J. Clinton stated "NATO's doors will not close behind its first new members . . . NATO should remain open to all of Europe's emerging democracies who are ready to shoulder the responsibilities of membership . . . [n]o nation will be automatically excluded . . . [n]o country outside NATO will have a veto . . . [a] gray zone of insecurity must not reemerge in Europe".

(13) At the Prague Summit of the North Atlantic Treaty Organization in November 2002, Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia were invited to join the Alliance in the second round of enlargement of the North Atlantic Treaty Organization since the end of the Cold War, and the North Atlantic Treaty Organization heads of state and government issued a declaration stating "NATO's door will remain open to European democracies willing and able to assume the responsibilities and obligations of membership, in accordance with Article 10 of the Washington Treaty".

(14) On May 8, 2003, the United States Senate unanimously approved the Resolution of Ratification to Accompany Treaty Document No. 108-4, Protocols to the North Atlantic Treaty of 1949 on Accession of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia, inviting Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia to join the North Atlantic Treaty Organization.

(15) At the Istanbul Summit of the North Atlantic Treaty Organization in June 2004, the North Atlantic Treaty Organization heads of state and government issued a communique' reaffirming that NATO's door remains open to new members, declaring "[w]e celebrate the success of NATO's Open Door Policy, and reaffirm tody that our seven new members will not be the last. The door to membership remains open. We welcome the progress made by Albania, Croatia, and the former Yugoslav Republic of Macedonia (1) in implementing their Annual National Programmes under the Membership Action Plan, and encourage them to continue pursuing the reforms necessary to progress toward NATO membership. We also commend their

contribution to regional stability and cooperation. We want all three countries to succeed and will continue to assist them in their reform efforts. NATO will continue to assess each country's candidacy individually, based on the progress made towards reform goals pursued through the Membership Action Plan, which will remain the vehicle to keep the readiness of each aspirant for membership under review. We direct that NATO Foreign Ministers keep the enlargement process, including the implementation of the Membership Action Plan, under continual review and report to us. We will review at the next Summit progress by aspirants towards membership based on that report".

(16) Georgia and Ukraine have stated their desire to join the Euro-Atlantic community, and in particular, are seeking to join the North Atlantic Treaty Organization. Georgia and Ukraine are working closely with the North Atlantic Treaty Organization and its members to meet criteria for eventual membership in NATO.

(17) At a press conference with President Mikhail Saakashvili of Georgia in Washington, D.C. on July 5, 2006, President George W. Bush stated that ". . . I believe that NATO would benefit with Georgia being a member of NATO, and I think Georgia would benefit. And there's a way forward through the Membership Action Plan . . . And I'm a believer in the expansion of NATO. I think it's in the world's interest that we expand NATO".

(18) Following a meeting of NATO Foreign Ministers in New York on September 21, 2006, NATO Secretary General Jaap de Hoop Scheffer announced the launching of an Intensified Dialogue on membership between the Alliance and Georgia.

(19) At the NATO-Ukraine Commission Summit in Brussels in February 2005, President of Ukraine Victor Yushchenko declared membership in NATO as the ultimate goal of Ukraine's cooperation with the Alliance and expressed Ukraine's desire to conclude a Membership Action Plan.

(20) At the NATO-Ukraine Commission Foreign Ministerial meeting in Vilnius in April 2005, NATO and Ukraine launched an Intensified Dialogue on the potential membership of Ukraine in NATO.

(21) At the Riga Summit of the North Atlantic Treaty Organization in November 2006, the Heads of State and Government of the member countries of NATO issued a declaration reaffirming that NATO's door remains open to new members, declaring that "all European democratic countries may be considered for MAP (Membership Action Plan) or admission, subject to decision by the NAC (North Atlantic Council) at each stage, based on the performance of these countries towards meeting the objectives of the North Atlantic Treaty. We direct that NATO Foreign Ministers keep that process under continual review and report to us. We welcome the efforts of Albania, Croatia, and the former Yugoslav Republic of Macedonia to prepare themselves for the responsibilities and obligations of membership. We reaffirm that the Alliance will continue with Georgia and Ukraine its Intensified Dialogues which cover the

full range of political, military, financial and security issues relating to those countries' aspirations to membership, without prejudice to any eventual Alliance decision. We reaffirm the importance of the NATO-Ukraine Distinctive Partnership, which has its 10th anniversary next year and welcome the progress that has been made in the framework of our Intensified Dialogue. We appreciate Ukraine's substantial contributions to our common security, including through participation in NATO-led operations and efforts to promote regional cooperation. We encourage Ukraine to continue to contribute to regional security. We are determined to continue to assist, through practical cooperation, in the implementation of far-reaching reform efforts, notably in the fields of national security, defence, reform of the defence-industrial sector and fighting corruption. We welcome the commencement of an Intensified Dialogue with Georgia as well as Georgia's contribution to international peacekeeping and security operations. We will continue to engage actively with Georgia in support of its reform process. We encourage Georgia to continue progress on political, economic and military reforms, including strengthening judicial reform, as well as the peaceful resolution of outstanding conflicts on its territory. We reaffirm that it is of great importance that all parties in the region should engage constructively to promote regional peace and stability.".

(22) Contingent upon their continued implementation of democratic, defense, and economic reform, and their willingness and ability to meet the responsibilities of membership in the North Atlantic Treaty Organization and a clear expression of national intent to do so, Congress calls for the timely admission of Albania, Croatia, Georgia, Macedonia (FYROM), and Ukraine to the North Atlantic Treaty Organization to promote security and stability in Europe.

**SEC. 3. DECLARATIONS OF POLICY.**

Congress—

(1) reaffirms its previous expressions of support for continued enlargement of the North Atlantic Treaty Organization contained in the NATO Participation Act of 1994, the NATO Enlargement Facilitation Act of 1996, the European Security Act of 1998, and the Gerald B. H. Solomon Freedom Consolidation Act of 2002;

(2) supports the commitment to further enlargement of the North Atlantic Treaty Organization to include European democracies that are able and willing to meet the responsibilities of Membership, as expressed by the Alliance in its Madrid Summit Declaration of 1997, its Washington Summit Communique' of 1999, its Prague Summit Declaration of 2002, its Istanbul Summit Communique' of 2004, and its Riga Summit Declaration of 2006; and

(3) endorses the vision of further enlargement of the North Atlantic Treaty Organization articulated by President George W. Bush on June 15, 2001, and by former President William J. Clinton on October 22, 1996, and urges our allies in the North Atlantic Treaty Organization to work with the United

States to realize a role for the North Atlantic Treaty Organization in promoting global security, including continued support for enlargement to include qualified candidate states, specifically by entering into a Membership Action Plan with Georgia and recognizing the progress toward meeting the responsibilities and obligations of NATO membership by Albania, Croatia, Georgia, Macedonia (FYROM), and Ukraine.

**SEC. 4. DESIGNATION OF ALBANIA, CROATIA, GEORGIA, MACEDONIA (FYROM), AND UKRAINE AS ELIGIBLE TO RECEIVE ASSISTANCE UNDER THE NATO PARTICIPATION ACT OF 1994.**

(a) DESIGNATION.—

(1) ALBANIA.—The Republic of Albania is designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note), and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act.

(2) CROATIA.—The Republic of Croatia is designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994, and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act.

(3) GEORGIA.—Georgia is designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994, and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act.

(4) MACEDONIA (FYROM).—The Republic of Macedonia (FYROM) is designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994, and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act.

(5) UKRAINE.—Ukraine is designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994, and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act.

(b) RULE OF CONSTRUCTION.—The designation of the Republic of Albania, the Republic of Croatia, Georgia, the Republic of Macedonia (FYROM), and Ukraine pursuant to subsection (a) as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994—

(1) is in addition to the designation of Poland, Hungary, the Czech Republic, and Slovenia pursuant to section 606 of the NATO Enlargement Facilitation Act of 1996 (title VI of section 101(c) of title I of division A of Public Law 104–208; 22 U.S.C. 1928 note), the designation of Romania, Estonia, Latvia, Lithuania, and Bulgaria pursuant to section 2703(b) of the European Security Act of 1998 (title XXVII of division G of Public Law 105–277; 22 U.S.C. 1928 note), and the designation of Slovakia pursuant to section 4(a) of the Gerald B. H. Solomon Freedom Consolidation Act of 2002 (Public Law 107–187; 22 U.S.C. 1928 note) as eligible to receive assistance under the

program established under section 203(a) of the NATO Participation Act of 1994; and

(2) shall not preclude the designation by the President of other countries pursuant to section 203(d)(2) of the NATO Participation Act of 1994 as eligible to receive assistance under the program established under section 203(a) of such Act.

**SEC. 5. AUTHORIZATION OF SECURITY ASSISTANCE FOR COUNTRIES DESIGNATED UNDER THE NATO PARTICIPATION ACT OF 1994.**

Of the amounts made available for fiscal year 2008 under section 23 of the Arms Export Control Act (22 U.S.C. 2763) such sums as may be necessary are authorized to be appropriated for assistance to the Republic of Albania, the Republic of Croatia, Georgia, the Republic of Macedonia (FYROM), and Ukraine.

## b. European Security Act of 1998

**Partial text of Public Law 105–277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998;[2] as amended by Public Law 106–113 [H.R. 3427, enacted by reference in H.R. 3194], 113 Stat. 1501, approved November 29, 1999**

### TITLE XXVII—EUROPEAN SECURITY ACT OF 1998[3]

**SEC. 2701. SHORT TITLE.**

This title may be cited as the "European Security Act of 1998".

**SEC. 2702. STATEMENT OF POLICY.**

(a) POLICY WITH RESPECT TO NATO ENLARGEMENT.—Congress urges the President to outline a clear and complete strategic rationale for the enlargement of the North Atlantic Treaty Organization (NATO), and declares that—

(1) Poland, Hungary, and the Czech Republic should not be the last emerging democracies in Central and Eastern Europe invited to join NATO;

(2) the United States should ensure that NATO continues a process whereby all other emerging democracies in Central and Eastern Europe that wish to join NATO will be considered for membership in NATO as soon as they meet the criteria for such membership;

(3) the United States should ensure that no limitations are placed on the numbers of NATO troops or types of equipment, including tactical nuclear weapons, to be deployed on the territory of new member states;

(4) the United States should reject all efforts to condition NATO decisions on review or approval by the United Nations Security Council;

(5) the United States should clearly delineate those NATO deliberations, including but not limited to discussions on arms control, further Alliance enlargement, procurement matters, and strategic doctrine, that are not subject to review or discussion in the NATO-Russia Permanent Joint Council;

(6) the United States should work to ensure that countries invited to join the Alliance are provided an immediate seat in NATO discussions; and

(7) the United States already pays more than a proportionate share of the costs of the common defense of Europe and should obtain, in advance, agreement on an equitable distribution of the cost of NATO enlargement to ensure that the United States does not continue to bear a disproportionate burden.

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[1] See also chapter 138 of 10 U.S.C., relating to cooperative agreements with NATO allies and other countries, in *Legislation on Foreign Relations Through 2008*, vol. I–B.

[2] Title XXVII of division G of Public Law 105–277 (112 Stat. 2681–839).

[3] 22 U.S.C. 1928 note.

(b) POLICY WITH RESPECT TO NEGOTIATIONS WITH RUSSIA.—

(1) IMPLEMENTATION.—NATO enlargement should be carried out in such a manner as to underscore the Alliance's defensive nature and demonstrate to Russia that NATO enlargement will enhance the security of all countries in Europe, including Russia. Accordingly, the United States and its NATO allies should make this intention clear in negotiations with Russia, including negotiations regarding adaptation of the Conventional Armed Forces in Europe (CFE) Treaty of November 19, 1990.

(2) LIMITATIONS ON COMMITMENTS TO RUSSIA.—In seeking to demonstrate to Russia NATO's defensive and security-enhancing intentions, it is essential that neither fundamental United States security interests in Europe nor the effectiveness and flexibility of NATO as a defensive alliance be jeopardized. In particular, no commitments should be made to Russia that would have the effect of—

(A) extending rights or imposing responsibilities on new NATO members different from those applicable to current NATO members, including rights or responsibilities with respect to the deployment of nuclear weapons and the stationing of troops and equipment from other NATO members;

(B) limiting the ability of NATO to defend the territory of new NATO members by, for example, restricting the construction of defense infrastructure or limiting the ability of NATO to deploy necessary reinforcements;

(C) providing any international organization, or any country that is not a member of NATO, with authority to delay, veto, or otherwise impede deliberations and decisions of the North Atlantic Council or the implementation of such decisions, including deliberations and decisions with respect to the deployment of NATO forces or the admission of additional members to NATO;

(D) impeding the development of enhanced relations between NATO and other European countries that do not belong to the Alliance;

(E) establishing a nuclear weapons-free zone in Central or Eastern Europe;

(F) requiring NATO to subsidize Russian arms sales, service, or support to the militaries of those former Warsaw Pact countries invited to join the Alliance; or

(G) legitimizing Russian efforts to link concessions in arms control negotiations to NATO enlargement.

(3) COMMITMENTS FROM RUSSIA.—In order to enhance security and stability in Europe, the United States should seek commitments from Russia—

(A) to demarcate and respect all its borders with neighboring states;

(B) to achieve the immediate and complete withdrawal of any armed forces and military equipment under the control of Russia that are deployed on the territories of the independent states of the former Soviet Union without the full and complete agreement of those states;

(C) to station its armed forces on the territory of other states only with the full and complete agreement of that state and in strict accordance with international law; and

(D) to take steps to reduce further its nuclear and conventional forces in Kaliningrad.

(4) CONSULTATIONS.—As negotiations on adaptation of the Treaty on Conventional Armed Forces in Europe proceed, the United States should engage in close and continuous consultations not only with its NATO allies, but also with the emerging democracies of Central and Eastern Europe, Ukraine, and the South Caucasus.

(c) POLICY WITH RESPECT TO BALLISTIC MISSILE DEFENSE COOPERATION.—

(1) IN GENERAL.—As the United States proceeds with efforts to develop defenses against ballistic missile attack, it should seek to foster a climate of cooperation with Russia on matters related to missile defense. In particular, the United States and its NATO allies should seek to cooperate with Russia in such areas as early warning.

(2) DISCUSSIONS WITH NATO ALLIES.—The United States should initiate discussions with its NATO allies for the purpose of examining the feasibility of deploying a ballistic missile defense capable of protecting NATO's southern and eastern flanks from a limited ballistic missile attack.

(3) CONSTITUTIONAL PREROGATIVES.—Even as the Congress seeks to promote ballistic missile defense cooperation with Russia, it must insist on its constitutional prerogatives regarding consideration of arms control agreements with Russia that bear on ballistic missile defense.

**SEC. 2703. AUTHORITIES RELATING TO NATO ENLARGEMENT.**

(a) POLICY OF SECTION.—This section is enacted in order to implement the policy set forth in section 2702(a).

(b) DESIGNATION OF ADDITIONAL COUNTRIES ELIGIBLE FOR NATO ENLARGEMENT ASSISTANCE.—

(1) DESIGNATION OF ADDITIONAL COUNTRIES.—Romania, Estonia, Latvia, Lithuania, and Bulgaria are each designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994 (22 U.S.C. 1928 note) and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act.

(2) RULE OF CONSTRUCTION.—The designation of countries pursuant to paragraph (1) as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994—

(A) is in addition to the designation of other countries by law or pursuant to section 203(d)(2) of such Act as eligible to receive assistance under the program established under section 203(a) of such Act; and

(B) shall not preclude the designation by the President of other emerging democracies in Central and Eastern Europe pursuant to section 203(d)(2) of such Act as eligible to receive assistance under the program established under section 203(a) of such Act.

(3) SENSE OF CONGRESS.—It is the sense of Congress that Romania, Estonia, Latvia, Lithuania, and Bulgaria—

(A) are to be commended for their progress toward political and economic reform and meeting the guidelines for prospective NATO members;

(B) would make an outstanding contribution to furthering the goals of NATO and enhancing stability, freedom, and peace in Europe should they become NATO members; and

(C) upon complete satisfaction of all relevant criteria should be invited to become full NATO members at the earliest possible date.

(c) REGIONAL AIRSPACE INITIATIVE AND PARTNERSHIP FOR PEACE INFORMATION MANAGEMENT SYSTEM.—

(1) IN GENERAL.—Funds described in paragraph (2) are authorized to be made available to support the implementation of the Regional Airspace Initiative and the Partnership for Peace Information Management System, including—

(A) the procurement of items in support of these programs; and

(B) the transfer of such items to countries participating in these programs.

(2) FUNDS DESCRIBED.—Funds described in this paragraph are funds that are available—

(A) during any fiscal year under the NATO Participation Act of 1994 with respect to countries eligible for assistance under that Act; or

(B) during fiscal year 1998 under any Act to carry out the Warsaw Initiative.

(d) EXTENSION OF AUTHORITY REGARDING EXCESS DEFENSE ARTICLES.—Section 105 of Public Law 104–164 (110 Stat. 1427) is amended * * *

(e) CONFORMING AMENDMENTS TO THE NATO PARTICIPATION ACT OF 1994.—Section 203(c) of the NATO Participation Act of 1994 (22 U.S.C. 1928 note) is amended—* * *

**SEC. 2704. SENSE OF CONGRESS WITH RESPECT TO THE TREATY ON CONVENTIONAL ARMED FORCES IN EUROPE.**

It is the sense of Congress that no revisions to the Treaty on Conventional Armed Forces in Europe will be approved for entry into force with respect to the United States that jeopardize fundamental United States security interests in Europe or the effectiveness and flexibility of NATO as a defensive alliance by—

(1) extending rights or imposing responsibilities on new NATO members different from those applicable to current NATO members, including rights or responsibilities with respect to the deployment of nuclear weapons and the stationing of troops and equipment from other NATO members;

(2) limiting the ability of NATO to defend the territory of new NATO members by, for example, restricting the construction of defense infrastructure or limiting the ability of NATO to deploy necessary reinforcements;

(3) providing any international organization, or any country that is not a member of NATO, with the authority to delay, veto, or otherwise impede deliberations and decisions of the

North Atlantic Council or the implementation of such decisions, including deliberations and decisions with respect to the deployment of NATO forces or the admission of additional members to NATO; or

(4) impeding the development of enhanced relations between NATO and other European countries that do not belong to the Alliance.

**SEC. 2705. RESTRICTIONS AND REQUIREMENTS RELATING TO BALLISTIC MISSILE DEFENSE.**

(a) POLICY OF SECTION.—This section is enacted in order to implement the policy set forth in section 2702(c).

(b) RESTRICTION ON ENTRY INTO FORCE OF ABM/TMD DEMARCATION AGREEMENTS.—An ABM/TMD demarcation agreement shall not be binding on the United States, and shall not enter into force with respect to the United States, unless, after the date of enactment of this Act, that agreement is specifically approved with the advice and consent of the United States Senate pursuant to Article II, section 2, clause 2 of the Constitution.

(c) SENSE OF CONGRESS WITH RESPECT TO DEMARCATION AGREEMENTS.—

(1) RELATIONSHIP TO MULTILATERALIZATION OF ABM TREATY.—It is the sense of Congress that no ABM/TMD demarcation agreement will be considered for advice and consent to ratification unless, consistent with the certification of the President pursuant to condition (9) of the resolution of ratification of the CFE Flank Document, the President submits for Senate advice and consent to ratification any agreement, arrangement, or understanding that would—

(A) add one or more countries as State Parties to the ABM Treaty, or otherwise convert the ABM Treaty from a bilateral treaty to a multilateral treaty; or

(B) change the geographic scope or coverage of the ABM Treaty, or otherwise modify the meaning of the term "national territory" as used in Article VI and Article IX of the ABM Treaty.

(2) PRESERVATION OF UNITED STATES THEATER BALLISTIC MISSILE DEFENSE POTENTIAL.—It is the sense of Congress that no ABM/TMD demarcation agreement that would reduce the capabilities of United States theater missile defense systems, or the numbers or deployment patterns of such systems, will be approved for entry into force with respect to the United States.

(d)[4] REPORT ON COOPERATIVE PROJECTS WITH RUSSIA.—Not later than January 1, 1999, January 1, 2000, and January 1, 2001,[5] the President shall submit to the Committees on International Relations, National Security, and Appropriations of the House of Representatives and the Committees on Foreign Relations, Armed Services, and Appropriations of the Senate a report on cooperative projects with Russia in the area of ballistic missile defense, including in the area of early warning. Each such report shall include the following:

(1) COOPERATIVE PROJECTS.—A description of all cooperative projects conducted in the area of early warning and ballistic missile defense during the preceding fiscal year and the fiscal year during which the report is submitted.

(2) FUNDING.—A description of the funding for such projects during the preceding fiscal year and the year during which the report is submitted and the proposed funding for such projects for the next fiscal year.

(3) STATUS OF DIALOGUE OR DISCUSSIONS.—A description of the status of any dialogue or discussions conducted during the preceding fiscal year between the United States and Russia aimed at exploring the potential for mutual accommodation of outstanding issues between the two nations on matters relating to ballistic missile defense and the ABM Treaty, including the possibility of developing a strategic relationship not based on mutual nuclear threats.

(e) DEFINITIONS.—In this section:

(1) ABM/TMD DEMARCATION AGREEMENT.—The term "ABM/TMD demarcation agreement" means any agreement that establishes a demarcation between theater ballistic missile defense systems and strategic antiballistic missile defense systems for purposes of the ABM Treaty.

(2) ABM TREATY.—The term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed at Moscow on May 26, 1972 (23 UST 3435),

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[4] See also sec. 3623 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1825), which requires the Secretary of Defense to deliver a report by November 24, 2004, concerning U.S./NATO-Russian cooperation on ballistic missile defense. Sec. 3623 of that Act reads as follows:

**"SEC. 3623. SENSE OF CONGRESS ON COOPERATION BY UNITED STATES AND NATO WITH RUSSIA ON BALLISTIC MISSILE DEFENSES.**

"(a) SENSE OF CONGRESS.—It is the sense of Congress that the President should, in conjunction with the North Atlantic Treaty Organization, encourage appropriate cooperative relationships between the Russian Federation and the United States and North Atlantic Treaty Organization with respect to the development and deployment of ballistic missile defenses.

"(b) REPORT TO CONGRESS.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall transmit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report (in unclassified or classified form as necessary) on the feasibility of increasing cooperation between the Russian Federation and the United States and the North Atlantic Treaty Organization on the subject of ballistic missile defense. The report shall include—

"(1) the recommendations of the Secretary;

"(2) a description of the threat such cooperation is intended to address; and

"(3) an assessment of possible benefits to ballistic missile defense programs of the United States.".

[5] Sec. 209(d) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), struck out "and January 1, 2000" and inserted in lieu thereof "January 1, 2000, and January 1, 2001,".

and includes the Protocols to that Treaty, signed at Moscow on July 3, 1974 (27 UST 1645).

## c. NATO Enlargement Facilitation Act of 1996

**Title VI of sec. 101(c) of title I of Public Law 104–208 [Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996**

### TITLE VI—NATO ENLARGEMENT FACILITATION ACT OF 1996 [1]

**SEC. 601. SHORT TITLE.**

This title may be cited as the "NATO Enlargement Facilitation Act of 1996".

**SEC. 602. FINDINGS.**

The Congress makes the following findings:

(1) Since 1949, the North Atlantic Treaty Organization (NATO) has played an essential role in guaranteeing the security, freedom, and prosperity of the United States and its partners in the Alliance.

(2) The NATO Alliance is, and has been since its inception, purely defensive in character, and it poses no threat to any nation. The enlargement of the NATO Alliance to include as full and equal members emerging democracies in Central and Eastern Europe will serve to reinforce stability and security in Europe by fostering their integration into the structures which have created and sustained peace in Europe since 1945. Their admission into NATO will not threaten any nation. America's security, freedom, and prosperity remain linked to the security of the countries of Europe.

(3) The sustained commitment of the member countries of NATO to a mutual defense has made possible the democratic transformation of Central and Eastern Europe. Members of the Alliance can and should play a critical role in addressing the security challenges of the post-Cold War era and in creating the stable environment needed for those emerging democracies in Central and Eastern Europe to successfully complete political and economic transformation.

(4) The United States continues to regard the political independence and territorial integrity of all emerging democracies in Central and Eastern Europe as vital to European peace and security.

(5) The active involvement by the countries of Central and Eastern Europe has made the Partnership for Peace program an important forum to foster cooperation between NATO and those countries seeking NATO membership.

(6) NATO has enlarged its membership on 3 different occasions since 1949.

[1] 22 U.S.C. 1928 note.

(7) Congress supports the admission of qualified new members to NATO and the European Union at an early date and has sought to facilitate the admission of qualified new members into NATO.

(8) Lasting security and stability in Europe requires not only the military integration of emerging democracies in Central and Eastern Europe into existing European structures, but also the eventual economic and political integration of these countries into existing European structures.

(9) As new members of NATO assume the responsibilities of Alliance membership, the costs of maintaining stability in Europe should be shared more widely. Facilitation of the enlargement process will require current members of NATO, and the United States in particular, to demonstrate the political will needed to build on successful ongoing programs such as the Warsaw Initiative and the Partnership for Peace by making available the resources necessary to supplement efforts prospective new members are themselves undertaking.

(10) New members will be full members of the Alliance, enjoying all rights and assuming all the obligations under the North Atlantic Treaty, signed at Washington on April 4, 1949 (hereafter in this Act referred to as the "Washington Treaty").

(11) In order to assist emerging democracies in Central and Eastern Europe that have expressed interest in joining NATO to be prepared to assume the responsibilities of NATO membership, the United States should encourage and support efforts by such countries to develop force structures and force modernization priorities that will enable such countries to contribute to the full range of NATO missions, including, most importantly, territorial defense of the Alliance.

(12) Cooperative regional peacekeeping initiatives involving emerging democracies in Central and Eastern Europe that have expressed interest in joining NATO, such as the Baltic Peacekeeping Battalion, the Polish-Lithuanian Joint Peacekeeping Force, and the Polish-Ukrainian Peacekeeping Force, can make an important contribution to European peace and security and international peacekeeping efforts, can assist those countries preparing to assume the responsibilities of possible NATO membership, and accordingly should receive appropriate support from the United States.

(13) NATO remains the only multilateral security organization capable of conducting effective military operations and preserving security and stability of the Euro-Atlantic region.

(14) NATO is an important diplomatic forum and has played a positive role in defusing tensions between members of the Alliance and, as a result, no military action has occurred between two Alliance member states since the inception of NATO in 1949.

(15) The admission to NATO of emerging democracies in Central and Eastern Europe which are found to be in a position to further the principles of the Washington Treaty would contribute to international peace and enhance the security of

the region. Countries which have become democracies and established market economies, which practice good neighborly relations, and which have established effective democratic civilian control over their defense establishments and attained a degree of interoperability with NATO, should be evaluated for their potential to further the principles of the Washington Treaty.

(16) Democratic civilian control of defense forces is an essential element in the process of preparation for those states interested in possible NATO membership.

(17) Protection and promotion of fundamental freedoms and human rights is an integral aspect of genuine security, and in evaluating requests for membership in NATO, the human rights records of the emerging democracies in Central and Eastern Europe should be evaluated according to their commitments to fulfill in good faith the human rights obligations of the Charter of the United Nations, the principles of the Universal Declaration on Human Rights, and the Helsinki Final Act.

(18) A number of Central and Eastern European countries have expressed interest in NATO membership, and have taken concrete steps to demonstrate this commitment, including their participation in Partnership for Peace activities.

(19) The Caucasus region remains important geographically and politically to the future security of Central Europe. As NATO proceeds with the process of enlargement, the United States and NATO should continue to examine means to strengthen the sovereignty and enhance the security of United Nations recognized countries in that region.

(20) In recognition that not all countries which have requested membership in NATO will necessarily qualify at the same pace, the accession date for each new member will vary.

(21) The provision of additional NATO transition assistance should include those emerging democracies most ready for closer ties with NATO and should be designed to assist other countries meeting specified criteria of eligibility to move forward toward eventual NATO membership.

(22) The Congress of the United States finds in particular that Poland, Hungary, and the Czech Republic have made significant progress toward achieving the criteria set forth in section 203(d)(3) of the NATO Participation Act of 1994 and should be eligible for the additional assistance described in this Act.

(23) The evaluation of future membership in NATO for emerging democracies in Central and Eastern Europe should be based on the progress of those nations in meeting criteria for NATO membership, which require enhancement of NATO's security and the approval of all NATO members.

(24) The process of NATO enlargement entails the consensus agreement of the governments of all 16 NATO members and ratification in accordance with their constitutional procedures.

(25) Some NATO members, such as Spain and Norway, do not allow the deployment of nuclear weapons on their territory

although they are accorded the full collective security guarantees provided by Article 5 of the Washington Treaty. There is no a priori requirement for the stationing of nuclear weapons on the territory of new NATO members, particularly in the current security climate. However, NATO retains the right to alter its security posture at any time as circumstances warrant.

**SEC. 603. UNITED STATES POLICY.**

It is the policy of the United States—

(1) to join with the NATO allies of the United States to adapt the role of the NATO Alliance in the post-Cold War world;

(2) to actively assist the emerging democracies in Central and Eastern Europe in their transition so that such countries may eventually qualify for NATO membership;

(3) to support the enlargement of NATO in recognition that enlargement will benefit the interests of the United States and the Alliance and to consider these benefits in any analysis of the costs of NATO enlargement;

(4) to ensure that all countries in Central and Eastern Europe are fully aware of and capable of assuming the costs and responsibilities of NATO membership, including the obligation set forth in Article 10 of the Washington Treaty that new members be able to contribute to the security of the North Atlantic area; and

(5) to work to define a constructive and cooperative political and security relationship between an enlarged NATO and the Russian Federation.

**SEC. 604. SENSE OF THE CONGRESS REGARDING FURTHER ENLARGEMENT OF NATO.**

It is the sense of the Congress that in order to promote economic stability and security in Slovakia, Estonia, Latvia, Lithuania, Romania, Bulgaria, Albania, Moldova, and Ukraine—

(1) the United States should continue and expand its support for the full and active participation of these countries in activities appropriate for qualifying for NATO membership;

(2) the United States Government should use all diplomatic means available to press the European Union to admit as soon as possible any country which qualifies for membership;

(3) the United States Government and the North Atlantic Treaty Organization should continue and expand their support for military exercises and peacekeeping initiatives between and among these nations, nations of the North Atlantic Treaty Organization, and Russia; and

(4) the process of enlarging NATO to include emerging democracies in Central and Eastern Europe should not be limited to consideration of admitting Poland, Hungary, the Czech Republic, and Slovenia as full members of the NATO Alliance.

**SEC. 605. SENSE OF THE CONGRESS REGARDING ESTONIA, LATVIA AND LITHUANIA.**

In view of the forcible incorporation of Estonia, Latvia, Lithuania into the Soviet Union in 1940 under the Molotov-Ribbentrop Pact

and the refusal of the United States and other countries to recognize that incorporation for over 50 years, it is the sense of the Congress that—

(1) Estonia, Latvia, and Lithuania have valid historical security concerns that must be taken into account by the United States; and

(2) Estonia, Latvia, and Lithuania should not be disadvantaged in seeking to join NATO by virtue of their forcible incorporation into the Soviet Union.

**SEC. 606. DESIGNATION OF COUNTRIES ELIGIBLE FOR NATO ENLARGEMENT ASSISTANCE.**

(a) IN GENERAL.—The following countries are designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994 and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act: Poland, Hungary, and the Czech Republic.

(b) DESIGNATION OF SLOVENIA.—Effective 90 days after the date of enactment of this Act, Slovenia is designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994, and shall be deemed to have been so designated pursuant to section 203(d) of such Act, unless the President certifies to Congress prior to such effective date that Slovenia fails to meet the criteria under section 203(d)(3) of such Act.

(c) DESIGNATION OF OTHER COUNTRIES.—The President shall designate other emerging democracies in Central and Eastern Europe as eligible to receive assistance under the program established under section 203(a) of such Act if such countries—

(1) have expressed a clear desire to join NATO;

(2) have begun an individualized dialogue with NATO in preparation for accession;

(3) are strategically significant to an effective NATO defense; and

(4) meet the other criteria outlined in section 203(d)(3) of the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note).

(d) RULE OF CONSTRUCTION.—Nothing in this section precludes the designation by the President of Estonia, Latvia, Lithuania, Romania, Slovakia, Bulgaria, Albania, Moldova, Ukraine, or any other emerging democracy in Central and Eastern Europe pursuant to section 203(d) of the NATO Participation Act of 1994 as eligible to receive assistance under the program established under section 203(a) of such Act.

**SEC. 607. AUTHORIZATION OF APPROPRIATIONS FOR NATO ENLARGEMENT ASSISTANCE.**

(a) IN GENERAL.—There are authorized to be appropriated $60,000,000 for fiscal year 1997 for the program established under section 203(a) of the NATO Participation Act of 1994.

(b) AVAILABILITY.—Of the funds authorized to be appropriated by subsection (a)—

(1) not less than $20,000,000 shall be available for the cost, as defined in section 502(5) of the Credit Reform Act of 1990, of direct loans pursuant to the authority of section 203(c)(4) of

the NATO Participation Act of 1994 (relating to the "Foreign Military Financing Program");

(2) not less than $30,000,000 shall be available for assistance on a grant basis pursuant to the authority of section 203(c)(4) of the NATO Participation Act of 1994 (relating to the "Foreign Military Financing Program"); and

(3) not more than $10,000,000 shall be available for assistance pursuant to the authority of section 203(c)(3) of the NATO Participation Act of 1994 (relating to international military education and training).

(c) RULE OF CONSTRUCTION.—Amounts authorized to be appropriated under this section are authorized to be appropriated in addition to such amounts as otherwise may be available for such purposes.

**SEC. 608. REGIONAL AIRSPACE INITIATIVE AND PARTNERSHIP FOR PEACE INFORMATION MANAGEMENT SYSTEM.**

(a) IN GENERAL.—To the extent provided in advance in appropriations acts for such purposes, funds described in subsection (b) are authorized to be made available to support the implementation of the Regional Airspace Initiative and the Partnership for Peace Information Management System, including—

(1) the procurement of items in support of these programs; and

(2) the transfer of such items to countries participating in these programs.

(b) FUNDS DESCRIBED.—Funds described in this subsection are funds that are available—

(1) during any fiscal year under the NATO Participation Act of 1994 with respect to countries eligible for assistance under that Act; or

(2) during fiscal year 1997 under any Act to carry out the Warsaw Initiative.

**SEC. 609. EXCESS DEFENSE ARTICLES.**

(a) PRIORITY DELIVERY.—Notwithstanding any other provision of law, the delivery of excess defense articles under the authority of section 203(c) (1) and (2) of the NATO Participation Act of 1994 and section 516 of the Foreign Assistance Act of 1961 shall be given priority to the maximum extent feasible over the delivery of such excess defense articles to all other countries except those countries referred to in section 541 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 (Public Law 103–306; 108 Stat. 1640).

(b) COOPERATIVE REGIONAL PEACEKEEPING INITIATIVES.—The Congress encourages the President to provide excess defense articles and other appropriate assistance to cooperative regional peacekeeping initiatives involving emerging democracies in Central and Eastern Europe that have expressed an interest in joining NATO in order to enhance their ability to contribute to European peace and security and international peacekeeping efforts.

**SEC. 610. MODERNIZATION OF DEFENSE CAPABILITY.**

The Congress endorses efforts by the United States to modernize the defense capability of Poland, Hungary, the Czech Republic, Slovenia, and any other countries designated by the President pursuant to section 203(d) of the NATO Participation Act of 1994, by exploring with such countries options for the sale or lease to such countries of weapons systems compatible with those used by NATO members, including air defense systems, advanced fighter aircraft, and telecommunications infrastructure.

**SEC. 611. TERMINATION OF ELIGIBILITY.**

(a) TERMINATION OF ELIGIBILITY.—The eligibility of a country designated pursuant to subsection (a) or (b) of section 606 or pursuant to section 203(d) of the NATO Participation Act of 1994 may be terminated upon a determination by the President that such country does not meet the criteria set forth in section 203(d)(3) of the NATO Participation Act of 1994.

(b) NOTIFICATION.—At least 15 days before terminating the eligibility of any country pursuant to subsection (a), the President shall notify the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 in accordance with the procedures applicable to reprogramming notifications under that section.

**SEC. 612. CONFORMING AMENDMENTS TO THE NATO PARTICIPATION ACT.**

The NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note) is amended * * *

## d. NATO Participation Act of 1994

**Title II of Public Law 103–447 [International Narcotics Control Corrections Act of 1994; H.R. 5246], 108 Stat. 4691 at 4695, approved November 2, 1994; as amended by Public Law 104–99 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, H.R. 1868, enacted by reference in sec. 301 of Public Law 104–99; H.R. 2880], 110 Stat. 26, approved January 26, 1996, enacted again as Public Law 104–107 [H.R. 1868], 110 Stat. 704, approved February 12, 1996; Public Law 104–208 [NATO Enlargement Facilitation Act of 1996, title VI of sec. 101(c) of title I of the Omnibus Consolidated Appropriations Act, 1997; H.R. 3610], 110 Stat. 3009, approved September 30, 1996; and Public Law 105–277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998**

### TITLE II—NATO PARTICIPATION ACT OF 1994 [1]

**SEC. 201. SHORT TITLE.**

This title may be cited as the "NATO Participation Act of 1994".

**SEC. 202. SENSE OF THE CONGRESS.**

It is the sense of the Congress that—

(1) the leaders of the NATO member nations are to be commended for reaffirming that NATO membership remains open to Partnership for Peace countries emerging from communist domination and for welcoming eventual expansion of NATO to include such countries;

(2) full and active participants in the Partnership for Peace in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area should be invited to become full NATO members in accordance with Article 10 of such Treaty at an early date, if such participants—

(A) maintain their progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law; and

(B) remain committed to protecting the rights of all their citizens and respecting the territorial integrity of their neighbors;

(3) the United States, other NATO member nations, and NATO itself should furnish appropriate assistance to facilitate the transition to full NATO membership at an early date of full and active participants in the Partnership for Peace; and

(4) in particular, Poland, Hungary, the Czech Republic, and Slovakia have made significant progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law since the fall of their previous communist governments.

[1] 22 U.S.C. 1928 note.

**SEC. 203. AUTHORITY FOR PROGRAM TO FACILITATE TRANSITION TO NATO MEMBERSHIP.**

(a) IN GENERAL.—The President may establish a program to assist the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other Partnership for Peace emerging democracies in Central and Eastern Europe[2] designated pursuant to subsection (d).

(b) CONDUCT OF PROGRAM.—The program established under subsection (a) shall facilitate the transition to full NATO membership of the countries designated under subsection (d)[3] by supporting and encouraging, inter alia—

(1) joint planning, training, and military exercises with NATO forces;

(2) greater interoperability of military equipment, air defense systems, and command, control, and communications systems; and

(3) conformity of military doctrine.

(c) TYPE OF ASSISTANCE.—In carrying out the program established under subsection (a), the President may provide to the countries designated under subsection (d)[3] the following types of security assistance:

(1) The transfer of excess defense articles under section 516 of the Foreign Assistance Act of 1961.[4]

(2)[5] Assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training).

(3)[5] Assistance under section 23 of the Arms Export Control Act (relating to the "Foreign Military Financing Program").

(4)[6] Assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the Economic Support Fund).

(5)[6] Funds made available for the "Nonproliferation and Disarmament Fund".[7]

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[2] Sec. 612 of the NATO Enlargement Facilitation Act of 1996 (title VI of sec. 101(c) of title I of Public Law 104–208; 110 Stat. 3009) struck out "countries emerging from communist domination" and inserted in lieu thereof "emerging democracies in Central and Eastern Europe" in secs. 203(a), 203(d)(1) and 203(d)(2).

[3] Sec. 585(a)(2)(A) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 754), struck out "countries described in such subsection" and inserted in lieu thereof "countries designated under subsection (d)".

[4] Sec. 2703(e)(1) of the European Security Act of 1999 (title XXVII of Public Law 105–277; 112 Stat. 2681–842) struck out ", without regard to the restrictions in paragraphs (1) through (3) of subsection (a) of such section (relating to the eligibility of countries for such articles under such section)" following "Foreign Assistance Act of 1961".

[5] Sec. 2703(e)(2) of the European Security Act of 1999 (title XXVII of Public Law 105–277; 112 Stat. 2681–842) struck out former para. (2), which had provided as follows:

"(2) The transfer of nonlethal excess defense articles under section 519 of the Foreign Assistance Act of 1961, without regard to the restriction in subsection (a) of such section (relating to the justification of the foreign military financing program for the fiscal year in which a transfer is authorized).".

Sec. 2703(e)(5) of that Act redesignated paras. (3) through (8) as paras. (2) through (7), respectively.

[6] Sec. 585(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 754, added paras. (5) through (8), redesignated as paras. (4) through (7) by sec. 2703(e)(5) of the European Security Act of 1999 (title XXVII of Public Law 105–277; 112 Stat. 2681–843).

[7] Sec. 2703(e)(3) of the European Security Act of 1999 (title XXVII of Public Law 105–277; 112 Stat. 2681–843) struck out "appropriated under the 'Nonproliferation and Disarmament Fund' account" and inserted in lieu thereof "made available for the 'Nonproliferation and Disarmament Fund'".

(6)[6] Assistance under chapter 6 of part II of the Foreign Assistance Act of 1961 (relating to peacekeeping operations and other programs).

(7)[6] Notwithstanding any other provision of law, including section 516(e)[8] of the Foreign Assistance Act of 1961,[9] the President may direct the crating, packing, handling, and transportation of excess defense articles provided pursuant to paragraph (1)[10] of this subsection without charge to the recipient of such articles.

(d)[11] DESIGNATION OF ELIGIBLE COUNTRIES.—

(1)[12] INITIAL PRESIDENTIAL REVIEW AND DESIGNATION.—Within 60 days of the enactment of the NATO Participation Act Amendments of 1995, the President should evaluate the degree to which any emerging democracies in Central and Eastern Europe[12] which has expressed its interest in joining NATO meets the criteria set forth in paragraph (3), and may designate one or more of these countries as eligible to receive assistance under the program established under subsection (a). The President shall, at the time of designation of any country pursuant to this paragraph, determine and report to the Committees on International Relations and Appropriations of the House of Representatives and the Committees on Foreign Relations and Appropriations of the Senate with respect to each country so designated that such country meets the criteria set forth in paragraph (3).

(2) OTHER EUROPEAN COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—In addition to the countries designated pursuant to paragraph (1), the President may at any time designate

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[8] Sec. 2703(e)(4)(A) of the European Security Act of 1999 (title XXVII of Public Law 105–277; 112 Stat. 2681–843) struck out "any restrictions in sections 516 and 519" and inserted in lieu thereof "section 516(e)".

[9] Sec. 2703(e)(4)(B) of the European Security Act of 1999 (title XXVII of Public Law 105–277; 112 Stat. 2681–843) struck out "as amended," following "Foreign Assistance Act of 1961,".

[10] Sec. 2703(e)(4)(C) of the European Security Act of 1999 (title XXVII of Public Law 105–277; 112 Stat. 2681–843) struck out "paragraphs (1) and (2)" and inserted in lieu thereof "paragraph (1)".

[11] Sec. 585(a)(1) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 752), amended and restated subsec. (d). It formerly read as follows:

"(d) DESIGNATION OF PARTNERSHIP FOR PEACE COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—The President may designate countries emerging from communism and participating in the Partnership for Peace, especially Poland, Hungary, the Czech Republic, and Slovakia, to receive assistance under the program established under subsection (a) if the President determines and reports to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that such countries—

"(1) are full and active participants in the Partnership for Peace;

"(2) have made significant progress toward establishing democratic institutions, a free market economy, civilian control of their armed forces, and the rule of law;

"(3) are likely in the near future to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area; and

"(4) are not selling or transferring defense articles to a state that has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j) of the Export Administration Act of 1979.".

[12] Sec. 585 of Public Law 104–107 (110 Stat. 752) amended and restated subsec. (d)(1), which among other changes altered the phrase "countries emerging from communist domination" to "any country emerging from communist domination". Sec. 612 of the NATO Enlargement Facilitation Act of 1996 (title VI of sec. 101(c) of title I of Public Law 104–208; 110 Stat. 3009) subsequently struck out "countries emerging from communist domination" in subsec. (d)(1), and inserted in lieu thereof "emerging democracies in Central and Eastern Europe", despite the fact that sec. 585 of Public Law 104–107 had already altered the phrase in subsec. (d)(1) to read "any country" instead of "countries". In keeping with the intent of the amendment in Public Law 104–208, the amendment here strikes out "any country emerging from communist domination" and inserts in lieu thereof "any emerging democracies in Central and Eastern Europe".

other European emerging democracies in Central and Eastern Europe[2] as eligible to receive assistance under the program established under subsection (a). The President shall, at the time of designation of any country pursuant to this paragraph, determine and report to the Committees on International Relations and Appropriations of the House of Representatives and the Committees on Foreign Relations and Appropriations of the Senate with respect to each country so designated that such country meets the criteria set forth in paragraph (3).

(3) CRITERIA.—The criteria referred to in paragraphs (1) and (2) are, with respect to each country, that the country—

(A) has made significant progress toward establishing—

(i) shared values and interests;

(ii) democratic governments;

(iii) free market economies;

(iv) civilian control of the military, of the police, and of intelligence services, so that these organizations do not pose a threat to democratic institutions, neighboring countries, or the security of NATO or the United States;

(v) adherence to the rule of law and to the values, principles, and political commitments set forth in the Helsinki Final Act and other declarations by the members of the Organization on Security and Cooperation in Europe;

(vi) commitment to further the principles of NATO and to contribute to the security of the North Atlantic area;

(vii) commitment to protecting the rights of all their citizens and respecting the territorial integrity of their neighbors;

(viii) commitment and ability to accept the obligations, responsibilities, and costs of NATO membership; and

(ix) commitment and ability to implement infrastructure development activities that will facilitate participation in and support for NATO military activities;

(B) is likely, within five years of such determination, to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area; and

(C) is not ineligible to receive assistance under section 552 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, with respect to transfers of equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 40(d) of the Arms Export Control Act.

(e) NOTIFICATION.—At least 15 days before designating any country pursuant to subsection (d), the President shall notify the appropriate congressional committees in accordance with the procedures applicable under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1), and shall include with such notification a

memorandum of justification with respect to the proposed designation.[13]

(f) DETERMINATION.—It is hereby determined that Poland, Hungary, the Czech Republic, and Slovakia meet the criteria required in paragraphs (1), (2), and (3) of subsection (d).

(g)[14] EFFECT ON OTHER AUTHORITIES.—Nothing in this Act shall affect the eligibility of countries to participate under other provisions of law in programs described in this Act.

**SEC. 204. ADDITIONAL AUTHORITIES.**

(a) ARMS EXPORT CONTROL ACT.—The President is authorized to exercise the authority of sections 63 and 65 of the Arms Export Control Act with respect to any country designated under section 203(d) of this title on the same basis authorized with respect to NATO countries.

(b) OTHER NATO AUTHORITIES.—The President should designate any country designated under section 203(d) of this title as eligible under sections 2350c and 2350f of title 10, United States Code.

(c) SENSE OF CONGRESS.—It is the sense of Congress that, in the interest of maintaining stability and promoting democracy in Poland, Hungary, the Czech Republic, Slovakia, and any other Partnership for Peace country designated under section 203(d) of this title, those countries should be included in all activities under section 2457 of title 10, United States Code, related to the increased standardization and enhanced interoperability of equipment and weapons systems, through coordinated training and procurement activities, as well as other means, undertaken by the North Atlantic Treaty Organization members and other allied countries.

**SEC. 205. ANNUAL[15] REPORTING REQUIREMENT.**

The President shall include in the annual[16] report required by section 514(a) of Public Law 103–236 (22 U.S.C. 1928 note) the following:

(1) A description of all assistance provided under the program established under section 203(a), or otherwise provided by the United States Government to facilitate the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and any other country designated by the President pursuant to section 203(d).[17]

(2) A description, on the basis of information received from the recipients and from NATO, of all assistance provided by other NATO member nations or NATO itself to facilitate the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and any other country designated by the President pursuant to section 203(d).[17]

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[13] Sec. 585(a)(2)(B) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 754) inserted "(22 U.S.C. 2394–1), and shall include with such notification a memorandum of justification with respect to the proposed designation".

[14] Sec. 585(c) of Public Law 104–107 (110 Stat. 754), added subsec. (g).

[15] Sec. 585(d)(1) of Public Law 104–107 (110 Stat. 754) added "ANNUAL" in the section catchline.

[16] Sec. 585(d)(2) of Public Law 104–107 (110 Stat. 754) added "annual" after "include in the".

[17] Sec. 585(d)(3) of Public Law 104–107 (110 Stat. 754) struck out "and other Partnership for Peace countries emerging from communist domination designated pursuant to section 203(d)" and inserted in lieu thereof "and any other country designated by the President pursuant to section 203(d)" in paras. (1) and (2).

## e. Reaffirming the United States Commitment to the North Atlantic Alliance

**Public Law 96–9 [H.J. Res. 283], 93 Stat. 22, approved April 19, 1979**

JOINT RESOLUTION Reaffirming the United States commitment to the North Atlantic Alliance.

Whereas April 4, 1979, marks the thirtieth anniversary of the signing in Washington of the North Atlantic Treaty;

Whereas the alliance created by the treaty constitutes the manifestation of the ties which bind the democracies of Europe and North America and of their determination to preserve their common heritage of individual liberties, the rule of law, and the dignity of humankind;

Whereas the peace and stability insured by the alliance for thirty years has fostered the well-being and freedom of nearly six hundred million human beings;

Whereas the conditions for political stability and economic prosperity derive from the military security provided by the alliance; and

Whereas the search for world peace, mutual respect among the nations of the world, and reduction in armaments are attainable only in a secure environment: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the North Atlantic Alliance be reaffirmed as a vital commitment and cornerstone of United States foreign policy, and that the bipartisan spirit that inspired its birth be rededicated to the purpose of strengthening it further in the cause of peace and security.

SEC. 2. The Congress recognizes the contribution of the Canadian and European Allies to the common defense and to the preservation of the civilization and common heritage of the West.

SEC. 3. On the occasion of this thirtieth anniversary, the Congress pledges its support for the Alliance as the indispensable basis for the achievement of our mutual security, the reduction of tensions, and the pursuit of improved relations among all nations.

SEC. 4. The Congress requests that the President of the United States forward copies of this resolution to the Chiefs of State of all member countries of the North Atlantic Treaty Organization, and to the Secretary General in recognition of his contribution to the strength and confidence of the North Atlantic Treaty Organization.

## f. Reaffirming the Unity of the North Atlantic Alliance Commitment

**Public Law 95–287 [S.J. Res. 137], 92 Stat. 280, approved May 30, 1978**

JOINT RESOLUTION Reaffirming the unity of the North Atlantic Alliance commitment.

Whereas thirty years ago the Congress passed the Vandenberg Resolution, which has come to represent the highest qualities of bipartisan statesmanship; and

Whereas the North Atlantic Alliance has preserved the peace in Europe for an entire generation, allowing its members to attain unprecedented levels of prosperity and well-being for their people; and

Whereas the leaders of the Alliance will gather in Washington, D.C., on May 30 and 31, 1978, to renew their adherence to its principles and rededicate themselves to its objectives; and

Whereas this meeting will be the capstone of efforts to ensure that the needs of collective security will be met over the next decade: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the North Atlantic Alliance be reaffirmed as a vital commitment and cornerstone of United States foreign policy, and that the bipartisan spirit that inspired its birth be rededicated to the purpose of strengthening it further in the cause of peace and security.

SEC. 2. The Congress recognizes the extraordinary success of the North Atlantic Alliance in fulfilling its goals of safeguarding the freedom, common heritage and civilization of its peoples, founded on the principles of democracy, individual liberty and the rule of law.

SEC. 3. On the occasion of the NATO summit meeting in Washington, the Congress declares its support for efforts to reaffirm the unity of the North Atlantic Alliance, to strengthen its defensive capabilities to meet threats to the peace, and on this basis to persevere in attempts to lessen tensions with the Warsaw Pact States.

## 8. Taiwan Relations [1]

### a. Taiwan Relations Act

**Public Law 96–8 [H.R. 2479], 93 Stat. 14, approved April 10, 1979; as amended by Public Law 98–164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017 at 1061, approved November 22, 1983**

AN ACT To help maintain peace, security, and stability in the Western Pacific and to promote the foreign policy of the United States by authorizing the continuation of commercial, cultural, and other relations between the people of the United States and the people of Taiwan, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

SECTION 1. This Act may be cited as the "Taiwan Relations Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 2.[2] (a) The President having terminated governmental relations between the United States and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, the Congress finds that the enactment of this Act is necessary—

(1) to help maintain peace, security, and stability in the Western Pacific; and

(2) to promote the foreign policy of the United States by authorizing the continuation of commercial, cultural, and other relations between the people of the United States and the people on Taiwan.

(b) It is the policy of the United States—

(1) to preserve and promote extensive, close, and friendly commercial, cultural, and other relations between the people of the United States and the people on Taiwan, as well as the people on the China mainland and all other peoples of the Western Pacific area;

(2) to declare that peace and stability in the area are in the political, security, and economic interests of the United States, and are matters of international concern;

(3) to make clear that the United States decision to establish diplomatic relations with the People's Republic of China rests upon the expectation that the future of Taiwan will be determined by peaceful means;

[1] See also sec. 1073 of the National Defense Authorization Act for Fiscal Year 1995, and sec. 221 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416; 108 Stat. 4320), relating to visas for high-level officials of Taiwan, in *Legislation on Foreign Relations Through 2008*, vol. II–A.

[2] 22 U.S.C. 3301.

(4) to consider any effort to determine the future of Taiwan by other than peaceful means, including by boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States;

(5) to provide Taiwan with arms of a defensive character; and

(6) to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economical system, of the people on Taiwan.

(c) Nothing contained in this Act shall contravene the interest of the United States in human rights, especially with respect to the human rights of all the approximately eighteen million inhabitants of Taiwan. The preservation and enhancement of the human rights of all the people on Taiwan are hereby reaffirmed as objectives of the United States.

IMPLEMENTATION OF UNITED STATES POLICY WITH REGARD TO TAIWAN

SEC. 3.[3] (a) In furtherance of the policy set forth in section 2 of this Act, the United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability.[4]

(b) The President and the Congress shall determine the nature and quantity of such defense articles and services based solely upon their judgment of the needs of Taiwan, in accordance with procedures established by law. Such determination of Taiwan's defense needs shall include review by United States military authorities in connection with recommendations to the President and the Congress.

(c) The President is directed to inform the Congress promptly of any threat to the security or the social or economic system of the people on Taiwan and any danger to the interests of the United States arising therefrom. The President and the Congress shall determine, in accordance with constitutional processes, appropriate action by the United States in response to any such danger.

APPLICATION OF LAWS; INTERNATIONAL AGREEMENTS

SEC. 4.[5] (a) The absence of diplomatic relations or recognition shall not affect the application of the laws of the United States with respect to Taiwan, and the law of the United States shall apply with respect to Taiwan in the manner that the laws of the

[3] 22 U.S.C. 3302.

[4] Sec. 23 of the International Security Assistance Act of 1979 (Public Law 96–92; 93 Stat. 710) provided authorization for the President to transfer to Taiwan war reserve material and other property during calendar years 1980 and 1981. For text of sec. 23, see *Legislation on Foreign Relations Through 2008*, vol. I–A.

[5] 22 U.S.C. 3303. See also sec. 704 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), pertaining to reports from the Secretary of State to Congress on U.S. support for membership or participation of Taiwan in international organizations.

United States applied with respect to Taiwan prior to January 1, 1979.

(b) The application of subsection (a) of this section shall include, but shall not be limited to, the following:

(1) Whenever the laws of the United States refer or relate to foreign countries, nations, states, governments, or similar entities, such terms shall include and such laws shall apply with respect to Taiwan.

(2) Whenever authorized by or pursuant to the laws of the United States to conduct or carry out programs, transactions, or other relations with respect to foreign countries, nations, states, governments, or similar entities, the President or any agency of the United States Government is authorized to conduct and carry out, in accordance with section 6 of this Act, such programs, transactions, and other relations with respect to Taiwan (including, but not limited to, the performance of services for the United States through contracts with commercial entities on Taiwan), in accordance with the applicable laws of the United States.

(3)(A) The absence of diplomatic relations and recognition with respect to Taiwan shall not abrogate, infringe, modify, deny, or otherwise affect in any way any rights or obligations (including but not limited to those involving contracts, debts, or property interests of any kind) under the laws of the United States heretofore or hereafter acquired by or with respect to Taiwan.

(B) For all purposes under the laws of the United States, including actions in any court in the United States, recognition of the People's Republic of China shall not affect in any way the ownership of or other rights or interests in properties, tangible and intangible, and other things of value, owned or held on or prior to December 31, 1978, or thereafter acquired or earned by the governing authorities on Taiwan.

(4) Whenever the application of the laws of the United States depends upon the law that is or was applicable on Taiwan or compliance therewith, the law applied by the people on Taiwan shall be considered the applicable law for that purpose.

(5) Nothing in this Act, nor the facts of the President's action in extending diplomatic recognition to the People's Republic of China, the absence of diplomatic relations between the people on Taiwan and the United States, or the lack of recognition by the United States, and attendant circumstances thereto, shall be construed in any administrative or judicial proceeding as a basis for any United States Government agency, commission, or department to make a finding of fact or determination of law, under the Atomic Energy Act of 1954 and the Nuclear Non-Proliferation Act of 1978, to deny an export license application or to revoke an existing export license for nuclear exports to Taiwan.

(6) For purposes of the Immigration and Nationality Act, Taiwan may be treated in the manner specified in the first sentence of section 202(b) of that Act.[6]

(7) The capacity of Taiwan to sue and be sued in courts in the United States, in accordance with the laws of the United States, shall not be abrogated, infringed, modified, denied, or otherwise affected in any way by the absence of diplomatic relations or recognition.

(8) No requirement, whether expressed or implied, under the laws of the United States with respect to maintenance of diplomatic relations or recognition shall be applicable with respect to Taiwan.

(c) For all purposes, including actions in any court in the United States, the Congress approves the continuation in force of all treaties and other international agreements, including multilateral conventions, entered into by the United States and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, and in force between them on December 31, 1978, unless and until terminated in accordance with law.

(d) Nothing in this Act may be construed as a basis for supporting the exclusion or expulsion of Taiwan from continued membership in any international financial institution of any other international organization.

OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 5.[7] (a) During the three-year period beginning on the date of enactment of this Act, the $1,000 per capita income restriction in clause (2) of the second undesignated paragraph of section 231 of the Foreign Assistance Act of 1961 shall not restrict the activities of the Overseas Private Investment Corporation in determining whether to provide any insurance, reinsurance, loans, or guaranties with respect to investment projects on Taiwan.

(b) Except as provided in subsection (a) of this section, in issuing insurance, reinsurance, loans, or guaranties with respect to investment projects on Taiwan, the Overseas Private Insurance Corporation shall apply the same criteria as those applicable in other parts of the world.

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[6] Sec. 714 of the International Security and Development Cooperation Act of 1981 (Public Law 97–113; 95 Stat. 1548) provided the following:

"SEC. 714. The approval referred to in the first sentence of section 202(b) of the Immigration and Nationality Act shall be considered to have been granted with respect to Taiwan (China).".

The first sentence of sec. 202(b) of the Immigration and Nationality Act, as amended (8 U.S.C. 1152(b)) provides: "Each independent country, self-governing dominion, mandated territory, and territory under the international trusteeship system of the United Nations, other than the United States and its outlying possessions, shall be treated as a separate foreign state for the purposes of a numerical level established under subsection (a)(2) of this section when approved by the Secretary of State.".

On April 30, 1979, pursuant to sec. 104 of the Immigration and Nationality Act (8 U.S.C. 1104), the Department of State amended 22 CFR Part 42 effective April 23, 1979 to provide that aliens in Taiwan applying for immigrant visas shall be required to appear personally before a designated officer of the American Institute in Taiwan in connection with the execution of his immigrant visa application (44 F.R. 28659; May 16, 1979).

[7] 22 U.S.C. 3304.

THE AMERICAN INSTITUTE OF TAIWAN

SEC. 6.[8] (a) Programs, transactions, and other relations conducted or carried out by the President or any agency of the United States Government with respect to Taiwan shall, in the manner and to the extent directed by the President, be conducted and carried out by or through—

(1) The American Institute in Taiwan, a nonprofit corporation incorporated under the laws of the District of Columbia, or

(2) such comparable successor nongovernmental entity as the President may designate,

(hereafter in this Act referred to as the "Institute").

(b) Whenever the President or any agency of the United States Government is authorized or required by or pursuant to the laws of the United States to enter into, perform, enforce, or have in force an agreement or transaction relative to Taiwan, such agreement or transaction shall be entered into, performed, and enforced, in the manner and to the extent directed by the President, by or through the Institute.

(c) To the extent that any law, rule, regulation, or ordinance of the District of Columbia, or of any State or political subdivision thereof in which the Institute is incorporated or doing business, impedes or otherwise interferes with the performance of the functions of the Institute pursuant to this Act, such law, rule, regulation, or ordinance shall be deemed to be preempted by this Act.

SERVICES BY THE INSTITUTE TO UNITED STATES CITIZENS ON TAIWAN

SEC. 7.[9] (a) The Institute may authorize any of its employees on Taiwan—

(1) to administer to or take from any person on oath, affirmation, affidavit, or deposition, and to perform any notarial act which any notary public is required or authorized by law to perform within the United States;

(2) to act as provisional conservator of the personal estates of deceased United States citizens; and

(3) to assist and protect the interests of United States persons by performing other acts such as are authorized to be performed outside the United States for consular purposes by such laws of the United States as the President may specify.

(b) Acts performed by authorized employees of the Institute under this section shall be valid, and of like force and effect within the United States, as if performed by any other person authorized under the laws of the United States to perform such acts.

TAX EXEMPT STATUS OF THE INSTITUTE

SEC. 8.[10] (a) The Institute, its property, and its income are exempt from all taxation now or hereafter imposed by the United

[8] 22 U.S.C. 3305.
[9] 22 U.S.C. 3306.
[10] 22 U.S.C. 3307.

States (except to the extent that section 11(a)(3) of this Act requires the imposition of taxes imposed under chapter 21 of the Internal Revenue Code of 1986,[11] relating to the Federal Insurance Contributions Act) or by any State or local taxing authority of the United States.

(b) For purposes of the Internal Revenue Code of 1986,[11] the Institute shall be treated as an organization described in sections 170(b)(1)(A), 170(c), 2055(a), 2106(a)(2)(A), 2522(a), and 2522(b).

FURNISHING PROPERTY AND SERVICES TO AND OBTAINING SERVICES FROM THE INSTITUTE

SEC. 9.[12] (a) Any agency of the United States Government is authorized to sell, loan, or lease property (including interests therein) to, and to perform administrative and technical support functions and services for the operations of, the Institute upon such terms and conditions as the President may direct. Reimbursements to agencies under this subsection shall be credited to the current applicable appropriation of the agency concerned.

(b) Any agency of the United States Government is authorized to acquire and accept services from the Institute upon such terms and conditions as the President may direct. Whenever the President determines it to be in furtherance of the purposes of this Act, the procurement of services by such agencies from the Institute may be effected without regard to such laws of the United States normally applicable to the acquisition of services by such agencies as the President may specify by Executive order.

(c) Any agency of the United States Government making funds available to the Institute in accordance with this Act shall make arrangements with the Institute for the Comptroller General of the United States to have access to the books and records of the Institute and the opportunity to audit the operations of the Institute.

TAIWAN INSTRUMENTALITY

SEC. 10.[13] (a) Whenever the President or any agency of the United States Government is authorized or required by or pursuant to the laws of the United States to render or provide to or to receive or accept from Taiwan, any performance, communication, assurance, undertaking, or other action, such action shall, in the manner and to the extent directed by the President, be rendered or provided to, or received or accepted from, an instrumentality established by Taiwan which the President determines has the necessary authority under the laws applied by the people on Taiwan to provide assurances and take other actions on behalf of Taiwan in accordance with this Act.

(b) The President is requested to extend to the instrumentality established by Taiwan the same number of offices and complement of personnel as were previously operated in the United States by

[11] Sec. 2 of the Tax Reform Act of 1986 (Public Law 99–514; 100 Stat. 2095) struck out "Internal Revenue Code of 1954" and inserted in lieu thereof "Internal Revenue Code of 1986", wherever it is cited in any law.
[12] 22 U.S.C. 3308.
[13] 22 U.S.C. 3309.

the governing authorities on Taiwan recognized as the Republic of China prior to January 1, 1979.

(c) Upon the granting by Taiwan of comparable privileges and immunities with respect to the Institute and its appropriate personnel, the President is authorized to extend with respect to the Taiwan instrumentality and its appropriate personnel, such privileges and immunities (subject to appropriate conditions and obligations) as may be necessary for the effective performance of their functions.

SEPARATION OF GOVERNMENT PERSONNEL FOR EMPLOYMENT WITH THE INSTITUTE

SEC. 11.[14] (a)(1) Under such terms and conditions as the President may direct, any agency of the United States Government may separate from Government service for a specified period any officer or employee of that agency who accepts employment with the Institute.

(2) An officer or employee separated by an agency under paragraph (1) of this subsection for employment with the Institute shall be entitled upon termination of such employment to reemployment or reinstatement with such agency (or a successor agency) in an appropriate position with the attendant rights, privileges, and benefits which the officer or employee would have had or acquired had he or she not been so separated, subject to such time period and other conditions as the President may prescribe.

(3) An officer or employee entitled to reemployment or reinstatement rights under paragraph (2) of this subsection shall, while continuously employed by the Institute with no break in continuity of service, continue to participate in any benefit program in which such officer or employee was participating prior to employment by the Institute, including programs for compensation for job-related deaths, injury, or illness; programs for health and life insurance; programs for annual, sick, and other statutory leave; and programs for retirement under any system established by the laws of the United States; except that employment with the Institute shall be the basis for participation in such programs only to the extent that employee deductions and employer contributions, as required in payment for such participation for the period of employment with the Institute, are currently deposited in the program's or system's fund or depository. Death or retirement of any such officer or employee during approved service with the Institute and prior to reemployment or reinstatement shall be considered a death in or retirement from Government service for purposes of any employee or survivor benefits acquired by reason of service with any agency of the United States Government.

(4) Any officer or employee of an agency of the United States Government who entered into service with the Institute on approved leave of absence without pay prior to the enactment of this Act shall receive the benefits of this section for the period of such service.

[14] 22 U.S.C. 3310.

(b) Any agency of the United States Government employing alien personnel on Taiwan may transfer such personnel, with accrued allowances, benefits, and rights, to the Institute without a break in service for purposes of retirement and other benefits, including continued participation in any system established by the laws of the United States for the retirement of employees in which the alien was participating prior to the transfer to the Institute, except that employment with the Institute shall be creditable for retirement purposes only to the extent that employee deductions and employer contributions, as required, in payment for such participation for the period of employment with the Institute, are currently deposited in the system's fund or depository.

(c) Employees of the Institute shall not be employees of the United States and, in representing the Institute, shall be exempt from section 207 of title 18, United States Code.

(d)(1) For purposes of sections 911 and 913 of the Internal Revenue Code of 1986,[11] amounts paid by the Institute to its employees shall not be treated as earned income. Amounts received by employees of the Institute shall not be included in gross income, and shall be exempt from taxation, to the extent that they are equivalent to amounts received by civilian officers and employees of the Government of the United States as allowances and benefits which are exempt from taxation under section 912 of such Code.

(2) Except to the extent required by subsection (a)(3) of this section, service performed in the employ of the Institute shall not constitute employment for purposes of chapter 21 of such Code and title II of the Social Security Act.

REPORTING REQUIREMENT

SEC. 12.[15] (a) The Secretary of State shall transmit to the Congress the text of any agreement to which the Institute is a party. However, any such agreement the immediate public disclosure of which would, in the opinion of the President, be prejudicial to the national security of the United States shall not be so transmitted to the Congress but shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs[16] of the House of Representatives under an appropriate injunction of secrecy to be removed only upon due notice from the President.

(b) For purposes of subsection (a), the term "agreement" includes—

(1) any agreement entered into between the Institute and the governing authorities on Taiwan or the instrumentality established by Taiwan; and

(2) any agreement entered into between the Institute and an agency of the United States Government.

(c) Agreements and transactions made or to be made by or through the Institute shall be subject to the same congressional notification, review, and approval requirements and procedures as if

[15] 22 U.S.C. 3311.

[16] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

such agreements and transactions were made by or through the agency of the United States Government on behalf of which the Institute is acting.

(d)[17] * * * [Repealed—1983]

RULES AND REGULATIONS

SEC. 13.[18] The President is authorized to prescribe such rules and regulations as he may deem appropriate to carry out the purposes of this Act. During the three-year period beginning on the effective date of this Act, such rules and regulations shall be transmitted promptly to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate. Such action shall not, however, relieve the Institute of the responsibilities placed upon it by this Act.

CONGRESSIONAL OVERSIGHT

SEC. 14.[19] (a) The Committee on Foreign Affairs[16] of the House of Representatives, the Committee on Foreign Relations of the Senate, and other appropriate committees of the Congress shall monitor—

(1) the implementation of the provisions of this Act;

(2) the operation and procedures of the Institute;

(3) the legal and technical aspects of the continuing relationship between the United States and Taiwan; and

(4) the implementation of the policies of the United States concerning security and cooperation in East Asia.

(b) Such committees shall report, as appropriate, to their respective Houses on the results of their monitoring.

DEFINITIONS

SEC. 15.[20] For purposes of this Act—

(1) the term "laws of the United States" includes any statute, rule, regulation, ordinance, order, or judicial rule of decision of the United States or any political subdivision thereof; and

(2) the term "Taiwan" includes, as the context may require, the islands of Taiwan and the Pescadores, the people on those islands, corporation and other entities and associations created or organized under the laws applied on those islands, and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, and any successor governing authorities (including political subdivisions, agencies, and instrumentalities thereof).

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[17] Sec. 1011(a)(3) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98–164; 97 Stat. 1061) repealed subsec. (d). Subsec. (d) had required a report from the Secretary of State to the Congress every 6 months until April 1981 regarding the economic relations between the United States and Taiwan.

[18] 22 U.S.C. 3312.

[19] 22 U.S.C. 3313.

[20] 22 U.S.C. 3314.

AUTHORIZATION OF APPROPRIATIONS

SEC. 16.[21] In addition to funds otherwise available to carry out the provisions of this Act, there are authorized to be appropriated to the Secretary of State for the fiscal year 1980 such funds as may be necessary to carry out such provisions.[22] Such funds are authorized to remain available until expended.

SEVERABILITY OF PROVISIONS

SEC. 17.[23] If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to any other person or circumstance shall not be affected thereby.

EFFECTIVE DATE

SEC. 18. This Act shall be effective as of January 1, 1979.

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[21] 22 U.S.C. 3315.

[22] The Department of State Appropriations Act, 1986 (title III of Public Law 99–180; 99 Stat. 1150) provided $9,800,000 for necessary expenses to carry out this Act during fiscal year 1986. The Department of State Appropriations Act, 1987 (title III of Public Law 99–591; 100 Stat. 3341) provided $9,379,000 for fiscal year 1987. The Department of State Appropriations Act, 1988 (title III of Public Law 100–202; 101 Stat. 1329) provided $11,000,000 for fiscal year 1988. The Department of State Appropriations Act, 1989 (title III of Public Law 100–459; 102 Stat. 2205) provided $10,890,000 for fiscal year 1989. The Department of State Appropriations Act, 1990 (title III of Public Law 101–162; 103 Stat. 1007) provided $11,300,000 for fiscal year 1990. The Department of State Appropriations Act, 1991 (title III of Public Law 101–515; 104 Stat. 2126) provided $11,752,000 for fiscal year 1991. The Department of State and Related Agencies Appropriations Act, 1992 (title V of Public Law 102–140; 105 Stat. 818) provided $13,784,000 for fiscal year 1992. The Department of State and Related Agencies Appropriations Act, 1993 (title V of Public Law 102–395; 106 Stat. 1866) provided $15,543,000 for fiscal year 1993. The Department of State and Related Agencies Appropriations Act, 1994 (title V of Public Law 103–121; 107 Stat. 1186) provided $15,165,000 for fiscal year 1994. The Department of State and Related Agencies Appropriations Act, 1995 (title V of Public Law 103–317; 108 Stat. 1762) provided $15,465,000 for fiscal year 1995. The Department of State and Related Agencies Appropriations Act, 1996 (title IV of sec. 101 of title I of Public Law 104–134; 110 Stat. 1321–38) provided $15,165,000 for fiscal year 1996. The Department of State and Related Agencies Appropriations Act, 1997 (title V of sec. 101(a) of title I of Public Law 104–208; 110 Stat. 3009) provided $14,490,000 for fiscal year 1997. The Department of State and Related Agencies Appropriations Act, 1998 (title IV of Public Law 105–119; 111 Stat. 2496) provided $14,000,000 for fiscal year 1998. The Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105–277; 112 Stat. 2681–95) provided $14,750,000 for fiscal year 1999. The Department of State and Related Agency Appropriations Act, 2000 (title IV of H.R. 3421, enacted by reference in sec. 1000(a)(1) of Public Law 106–113; 113 Stat. 1536) provided $15,375,000 for fiscal year 2000. The Department of State and Related Agency Appropriations Act, 2001 (title IV of H.R. 5548, enacted by reference in sec. 1(a)(2) of Public Law 106–553; 114 Stat. 2762A–92) provided $16,345,000 for fiscal year 2001. The Department of State and Related Agency Appropriations Act, 2002 (title IV of Public Law 107–77; 115 Stat. 785) provided $17,044,000 for fiscal year 2002. The Department of State and Related Agency Appropriations Act, 2003 (title IV of division B of Public Law 108–7; 117 Stat. 88) provided $18,450,000 for fiscal year 2003. The Department of State and Related Agency Appropriations Act, 2004 (title IV of division B of Public Law 108–199; 118 Stat. 82) provided $18,782,000 for fiscal year 2004. The Department of State and Related Agency Appropriations Act, 2005 (title IV of division B of Public Law 108–447; 118 Stat. 2898) provided $19,482,000 for fiscal year 2005. The Department of State and Related Agency Appropriations Act, 2006 (title IV of Public Law 109–108; 119 Stat. 2322) provided $19,751,000 for fiscal year 2006. The Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (title I of division J of Public Law 110–161; 121 Stat. 2280) provided $16,351,000 for fiscal year 2008. The Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (title I of division H of Public Law 111–8; 123 Stat. 835) provided $16,840,000 for fiscal year 2009.

[23] 22 U.S.C. 3316.

## b. Participation of Taiwan in the World Health Organization [1]

**Public Law 108–235 [S. 2092], 118 Stat. 656, approved June 14, 2004**

AN ACT To address the participation of Taiwan in the World Health Organization.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CONCERNING THE PARTICIPATION OF TAIWAN IN THE WORLD HEALTH ORGANIZATION.**

(a) FINDINGS.—Congress makes the following findings:

(1) Good health is important to every citizen of the world and access to the highest standards of health information and services is necessary to improve the public health.

(2) Direct and unobstructed participation in international health cooperation forums and programs is beneficial for all parts of the world, especially today with the great potential for the cross-border spread of various infectious diseases suchas the human immunodeficiency virus (HIV), tuberculosis, and malaria.

(3) Taiwan's population of 23,500,000 people is greater than that of ¾ of the member states already in the World Health Organization (WHO).

(4) Taiwan's achievements in the field of health are substantial, including—

(A) attaining—

(i) 1 [2] of the highest life expectancy levels in Asia; and

(ii) maternal and infant mortality rates comparable to those of western countries;

(B) eradicating such infectious diseases as cholera, smallpox, the plague, and polio; and

(C) providing children with hepatitis B vaccinations.

(5) The United States Centers for Disease Control and Prevention and its counterpart agencies in Taiwan have enjoyed close collaboration on a wide range of public health issues.

(6) In recent years Taiwan has expressed a willingness to assist financially and technically in international aid and health activities supported by the WHO.

(7) On January 14, 2001, an earthquake, registering between 7.6 and 7.9 on the Richter scale, struck El Salvador. In response, the Taiwanese Government sent 2 rescue teams, consisting of 90 individuals specializing in firefighting, medicine,

[1] 22 U.S.C. 290 note. Public Law 107–10 (115 Stat. 17), Public Law 107–158 (116 Stat. 121), Public Law 106–137 (113 Stat. 1691), and Public Law 108–28 (117 Stat. 769) also concern Taiwan's participation in the WHO. Sec. 1(c) of this Act made the one-time reporting requirements in these previous Acts permanent and recurring.

[2] As enrolled.

and civil engineering. The Taiwanese Ministry of Foreign Affairs also donated $200,000 in relief aid to the Salvadoran Government.

(8) The World Health Assembly has allowed observers to participate in the activities of the organization, including the Palestine Liberation Organization in 1974, the Order of Malta, and the Holy See in the early 1950's.

(9) The United States, in the 1994 Taiwan Policy Review, declared its intention to support Taiwan's participation in appropriate international organizations.

(10) Public Law 106–137 required the Secretary of State to submit a report to Congress on efforts by the executive branch to support Taiwan's participation in international organizations, in particular the WHO.

(11) In light of all benefits that Taiwan's participation in the WHO can bring to the state of health not only in Taiwan, but also regionally and globally, Taiwan and its 23,500,000 people should have appropriate and meaningful participation in the WHO.

(12) On May 11, 2001, President Bush stated in a letter to Senator Murkowski that the United States "should find opportunities for Taiwan's voice to be heard in international organizations in order to make a contribution, even if membership is not possible", further stating that the administration "has focused on finding concrete ways for Taiwan to benefit and contribute to the WHO".

(13) In his speech made in the World Medical Association on May 14, 2002, Secretary of Health and Human Services Tommy Thompson announced "America's work for a healthy world cuts across political lines. That is why my government supports Taiwan's efforts to gain observership status at the World Health Assembly. We know this is a controversial issue, but we do not shrink from taking a public stance on it. The people of Taiwan deserve the same level of public health as citizens of every nation on earth, and we support them in their efforts to achieve it".

(14) The Government of the Republic of China on Taiwan, in response to an appeal from the United Nations and the United States for resources to control the spread of HIV/AIDS, donated $1,000,000 to the Global Fund to Fight AIDS, Tuberculosis, and Malaria in December 2002.

(15) In 2003, the outbreak of Severe Acute Respiratory Syndrome (SARS) caused 84 deaths in Taiwan.

(16) Avian influenza, commonly known as bird flu, has reemerged in Asia, with strains of the influenza reported by the People's Republic of China, Cambodia, Indonesia, Japan, Pakistan, South Korea, Taiwan, Thailand, Vietnam, and Laos.

(17) The SARS and avian influenza outbreaks illustrate that disease knows no boundaries and emphasize the importance of allowing all people access to the WHO.

(18) As the pace of globalization quickens and the spread of infectious disease accelerates, it is crucial that all people, including the people of Taiwan, be given the opportunity to participate in international health organizations such as the WHO.

(19) The Secretary of Health and Human Services acknowledged during the 2003 World Health Assembly meeting that "[t]he need for effective public health exists among all peoples".

(b) PLAN.—The Secretary of State is authorized to—

(1) initiate a United States plan to endorse and obtain observer status for Taiwan at the annual week-long summit of the World Health Assembly each year in Geneva, Switzerland;

(2) instruct the United States delegation to the World Health Assembly in Geneva to implement that plan; and

(3) introduce a resolution in support of observer status for Taiwan at the summit of the World Health Assembly.

(c) REPORT CONCERNING OBSERVER STATUS FOR TAIWAN AT THE SUMMIT OF THE WORLD HEALTH ASSEMBLY.—Not later than 30 days after the date of the enactment of this Act, and not later than April 1 of each year thereafter, the Secretary of State shall submit a report to the Congress, in unclassified form, describing the United States plan to endorse and obtain observer status for Taiwan at the annual week-long summit of the World Health Assembly (WHA) held by the World Health Organization (WHO) in May of each year in Geneva, Switzerland. Each report shall include the following:

(1) An account of the efforts the Secretary of State has made, following the last meeting of the World Health Assembly, to encourage WHO member states to promote Taiwan's bid to obtain observer status.

(2) The steps the Secretary of State will take to endorse and obtain observer status at the next annual meeting of the World Health Assembly in Geneva, Switzerland.

## c. American Institute in Taiwan Facilities Enhancement Act

**Public Law 106–212 [H.R. 3707], 114 Stat. 332, approved May 26, 2000**

AN ACT To authorize funds for the construction of a facility in Taipei, Taiwan suitable for the mission of the American Institute in Taiwan.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "American Institute in Taiwan Facilities Enhancement Act".

**SEC. 2. FINDINGS.**

The Congress finds that—

(1) in the Taiwan Relations Act of 1979 (22 U.S.C. 3301 et seq.), the Congress established the American Institute in Taiwan (hereafter in this Act referred to as "AIT"), a nonprofit corporation incorporated in the District of Columbia, to carry out on behalf of the United States Government any and all programs, transactions, and other relations with Taiwan;

(2) the Congress has recognized AIT for the successful role it has played in sustaining and enhancing United States relations with Taiwan;

(3) the Taipei office of AIT is housed in buildings which were not originally designed for the important functions that AIT performs, whose location does not provide adequate security for its employees, and which, because they are almost 50 years old, have become increasingly expensive to maintain;

(4) the aging state of the AIT office building in Taipei is neither conducive to the safety and welfare of AIT's American and local employees nor commensurate with the level of contact that exists between the United States and Taiwan;

(5) AIT has made a good faith effort to set aside funds for the construction of a new office building, but these funds will be insufficient to construct a building that is large and secure enough to meet AIT's current and future needs; and

(6) because the Congress established AIT and has a strong interest in United States relations with Taiwan, the Congress has a special responsibility to ensure that AIT's requirements for safe and appropriate office quarters are met.

**SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated the sum of $75,000,000 to AIT—

(1) for plans for a new facility and, if necessary, residences or other structures located in close physical proximity to such facility, in Taipei, Taiwan, for AIT to carry out its purposes under the Taiwan Relations Act; and

(2) for acquisition by purchase or construction of such facility, residences, or other structures.

(b) LIMITATIONS.—Funds appropriated pursuant to subsection (a) may only be used if the new facility described in that subsection meets all requirements applicable to the security of United States diplomatic facilities, including the requirements in the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986 (22 U.S.C. 4801 et seq.) and the Secure Embassy Construction and Counterterrorism Act of 1999 (as enacted by section 1000(a)(7) of Public Law 106–113; 113 Stat. 1501A–451), except for those requirements which the Director of AIT certifies to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate are not applicable on account of the special status of AIT. In making such certification, the Director shall also certify that security considerations permit the exercise of the waiver of such requirements.

(c) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

## d. Maintaining Unofficial Relations With the People of Taiwan

**Executive Order 13014, 61 F.R. 42963, August 15, 1996, 22 U.S.C. 3301 note**

In light of the recognition of the People's Republic of China by the United States of America as the sole legal government of China, and by the authority vested in me as President of the United States of America by the Taiwan Relations Act (Public Law 96–8, 22 U.S.C. 3301 *et seq.*) ("Act"), and section 301 of title 3, United States Code, in order to facilitate the maintenance of commercial, cultural, and other relations between the people of the United States and the people on Taiwan without official representation or diplomatic relations, it is hereby ordered as follows:

**Section 1.** *Delegation and Reservation of Functions.*

*1–101.* Exclusive of the functions otherwise delegated, or reserved to the President by this order, there are delegated to the Secretary of State ("Secretary") all functions conferred upon the President by the Act, including the authority under section 7(a) of the Act to specify which laws of the United states relative to the provision of consular services may be administered by employees of the American Institute on Taiwan ("Institute"). In carrying out these functions, the Secretary may redelegated his authority, and shall consult with other departments and agencies as he deems appropriate.

*1–102.* There are delegated to the Director of the Office of Personnel Management the functions conferred upon the President by paragraphs (1) and (2) of section 11(a) of the Act. These functions shall be exercised in consultation with the Secretary.

*1–103.* There are reserved to the President the functions conferred upon the President by section 3, the second sentence of section 9(b), and the determination specified in section 10(a) of the Act.

**Sec. 2.** *Specification of Laws and Determinations.*

*2–201.* Pursuant to section 9(b) of the Act, and in furtherance of the purposes of the Act, the procurement of services may be effected by the Institute without regard to the following provisions of law and limitations of authority as they may be amended from time to time:

(a) Sections 1301(d) and 1341 of title 31, United States Code, and section 3732 of the Revised Statutes (41 U.S.C. 11) to the extent necessary to permit the indemnification of contractors against unusually hazardous risks, as defined in Institute contracts, consistent, to the extent practicable, with section 52.228–7 of the Federal Acquisition Regulations;

(b) Section 3324 of title 31, United States Code;

(c) Sections 3709, 3710, and 3735 of the Revised Statutes, as amended (41 U.S.C. 5, 8, and 13);

(d) Section 2 of title III of the Act of March 3, 1933 (41 U.S.C. 10a);

(e) Title III of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 251–260);

(f) The Contract Disputes Act of 1978, as amended (41 U.S.C. 601–613);

(g) Chapter 137 of title 10, United States Code (10 U.S.C. 2301–2316);

(h) The Act of May 11, 1954 (the "Anti-Wunderlich Act") (41 U.S.C. 321, 322); and

(i) Section (f) of 41 U.S.C. 423.

*2–202.* (a) With respect to cost-type contracts with the Institute under which no fee is charged or paid, amendments and modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or the form of the contract amended or modified, or of the amending or modifying contract and irrespective of rights that may have accrued under the contractor, the amendments or modifications thereof.

(b) With respect to contracts heretofore or hereafter made under the Act, other than those described in subsection (a) of this section, amendments and modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or the form of the contract amended or modified, or of the amending or modifying contract, and irrespective of rights that may have accrued under the contract or the amendments or modifications thereof, if the Secretary determines in each case that such action is necessary to protect the foreign policy interests of the United States.

*2–203.* Pursuant to section 10(a) of the Act, the Taipei Economic and Cultural Representative Office of the United States ("TECRO"), formerly the Coordination Council for North American Affairs ("CCNAA"), is determined to be the instrumentality established by the people on Taiwan having the necessary authority under the laws applied by the people on Taiwan to provide assurances and take other actions on behalf of Taiwan in accordance with the Act. Nothing contained in this determination or order shall affect, or be construed to affect, the continued validity of agreements, contracts, or other undertakings, of whatever kind or nature, entered into previously by CCNAA.

**Sec. 3.** *President's Memorandum of December 30, 1978.*

*3–301.* Agreements and arrangements referred to in paragraph (B) of President Carter's memorandum of December 30, 1978, entitled "Relations With the People on Taiwan" (44 F.R. 1075) shall, unless otherwise terminated or modified in accordance with law, continue in force and be performed in accordance with the Act and this order.

**Sec. 4.** *General.* This order supersedes Executive Order No. 12143 of June 22, 1979.[1]

[1] 44 F.R. 37191 (June 28, 1979).

## 9. Panama Canal

### a. Panama Canal Act of 1979 [1]

**Partial text of Public Law 96–70 [H.R. 111], 93 Stat. 452, approved September 27, 1979; as amended by Public Law 98–217 [H.R. 3969], 98 Stat. 9, approved February 14, 1984; Public Law 98–600 [H.R. 6101], 98 Stat. 3145, approved October 30, 1984; Public Law 99–195 [H.R. 664], 99 Stat. 1349, approved December 23, 1985; Public Law 99–209 [Panama Canal Amendments Act of 1985, H.R. 729], 99 Stat. 1716, approved December 23, 1985; Public Law 99–223 [Panama Canal Commission Authorization Act, Fiscal Year 1986; H.R. 1784], 99 Stat. 1738, approved December 28, 1985; Public Law 99–368 [Panama Canal Commission Authorization Act, Fiscal Year 1987; H.R. 4409], 100 Stat. 775, approved August 1, 1986; Public Law 100–203 [Omnibus Budget Reconciliation Act of 1987, H.R. 3545], 101 Stat. 1330, approved December 22, 1987; Public Law 100–705 [Panama Canal Commission Compensation Fund Act of 1988, H.R. 5287], 102 Stat. 4685, approved November 19, 1988; Public Law 101–510 [National Defense Authorization Act for Fiscal Year 1991, H.R. 4739], 104 Stat. 1485, approved November 5, 1990; Public Law 102–484 [National Defense Authorization Act for Fiscal Year 1993, H.R. 5006], 106 Stat. 2315, approved October 23, 1992; Public Law 103–160 [National Defense Authorization Act for Fiscal Year 1994, H.R. 2401], 107 Stat. 1547, approved November 30, 1993; Public Law 103–416 [Immigration and Nationality Technical Corrections Act of 1994; H.R. 783], 108 Stat. 4305, approved October 25, 1994; Public Law 103–337 [National Defense Authorization Act for Fiscal Year 1995; S. 2182], 108 Stat. 2663, approved October 5, 1994; Public Law 103–416 [Immigration and Nationality Corrections Act of 1994; H.R. 783], 108 Stat. 4305, approved October 25, 1994; Public Law 104–66 [Federal Reports Elimination and Sunset Act of 1995; S. 790], 109 Stat. 707, approved December 21, 1995; Public Law 104–99 [Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, H.R. 1868, enacted by reference in sec. 301 of Public Law 104–99; H.R. 2880], 110 Stat. 26, approved January 26, 1996, enacted again as Public Law 104–107 [H.R. 1868], 110 Stat. 755, approved February 12, 1996; Public Law 104–106 [National Defense Authorization Act for Fiscal Year 1996; S. 1124], 110 Stat. 186, approved February 10, 1996; Public Law 104–201 [National Defense Authorization Act for Fiscal Year 1997; H.R. 3230], 110 Stat. 2422, approved September 23, 1996; Public Law 105–85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119], 111 Stat. 1629, approved November 18, 1997; Public Law 105–261 [Strom Thurmond National Defense Authorization Act for Fiscal Year 1999; H.R. 3616], 112 Stat. 1920, approved October 17, 1998; Public Law 106–65 [National Defense Authorization Act for Fiscal Year 2000; S. 1059], 113 Stat. 512, approved October 5, 1999; and Public Law 108–309 [H.J. Res. 107], 118 Stat. 1137, approved September 30, 2004**

AN ACT To provide for the operation and maintenance of the Panama Canal under the Panama Treaty of 1977, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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[1] For text of the Panama Canal Treaty, the document that this legislation implemented, see *Legislation on Foreign Relations Through 2008*, vol. V, sec. G.

Sec. 3504(b) of the Panama Canal Commission Authorization Act for Fiscal Year 2000 (title XXXV of Public Law 106–65; 113 Stat. 975) provided the following:

"(b) OPERATION OF THE OFFICE OF TRANSITION ADMINISTRATION.—

Continued

SHORT TITLE

SECTION 1. This Act may be cited as the "Panama Canal Act of 1979".

TABLE OF CONTENTS[2]


| | Page |
|---|---|
| Sec. 1. Short title | 856 |
| Sec. 2. Statement of purpose | 858 |
| Sec. 3. Definitions | 858 |

TITLE I—ADMINISTRATION AND REGULATIONS

CHAPTER 1—PANAMA CANAL COMMISSION

| | |
|---|---|
| Sec. 1101. Establishment, Purposes, Offices, and Residence of Commission | 860 |
| Sec. 1102. Supervisory Board | 860 |
| Sec. 1102a. General powers of Commission | 862 |
| Sec. 1102b. Specific powers of Commission | 863 |
| Sec. 1103. Administrator | 864 |
| Sec. 1104. Deputy Administrator | 865 |
| Sec. 1105. Consultative Committee | 865 |
| Sec. 1106. Joint Commission on the Environment | 865 |
| Sec. 1107. Travel expenses | 866 |
| Sec. 1108. Defense of the Panama Canal | 866 |
| Sec. 1109. Joint Sea Level Canal Study Committee | 867 |
| Sec. 1110. Authority of the Ambassador | 867 |
| Sec. 1111. Security legislation | 868 |
| Sec. 1112. Code of Conduct for Commission personnel | 868 |
| Sec. 1113. Office of Ombudsman | 869 |

CHAPTER 2—EMPLOYEES

Subchapter I—Panama Canal Commission Personnel

| | |
|---|---|
| Sec. 1201. Definitions | 870 |
| Sec. 1202. Appointment and compensation; duties | 870 |
| Sec. 1203. Transfer of Federal employees | 871 |
| Sec. 1204. Compensation of individuals in the uniformed services | 871 |
| Sec. 1205. Deduction from basic pay of amounts due for supplies or services | 872 |
| Sec. 1208. Privileges and immunities of certain employees | 872 |
| Sec. 1209. Applicability of certain benefits | 872 |

Subchapter II—Wage and Employment Practices

| | |
|---|---|
| Sec. 1210. Air transportation | 873 |
| Sec. 1211. Definitions | 873 |
| Sec. 1212. Panama Canal Employment System; merit and other employment requirements | 873 |
| Sec. 1213. Employment standards | 874 |
| Sec. 1216. Uniform application of standards and rates | 875 |
| Sec. 1217. Recruitment and retention remuneration | 875 |
| Sec. 1217a. Quarters allowances | 876 |


"(1) IN GENERAL.—The Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) shall continue to govern the Office of Transition Administration until October 1, 2004.

"(2) PROCUREMENT.—For purposes of exercising authority under the procurement laws of the United States, the director of the Office of Transition Administration shall have the status of the head of an agency.

"(3) OFFICES.—The Office of Transition Administration shall have offices in the Republic of Panama and in the District of Columbia. Section 1110(b)(1) of the Panama Canal Act of 1973 (22 U.S.C. 3620(b)(1)) does not apply to such office in the Republic of Panama.

"(4) OFFICE OF TRANSITION ADMINISTRATION DEFINED.—In this subsection the term 'Office of Transition Administration' means the office established under section 1305 of the Panama Canal Act of 1979 (22 U.S.C. 3714a) to close out the affairs of the Panama Canal Commission.

"(5) EFFECTIVE DATE.—This subsection shall be effective on and after the termination of the Panama Canal Treaty of 1977.".

[2] Sec. 3548(d) of Public Law 104–201 (110 Stat. 2869) made numerous changes to the table of contents, to reflect amendments to the text of the Act. Secs. 3522(b), 3524(b), and 3526(b) of Public Law 104–106 (110 Stat. 638, 640, 641) also amended the table of contents.

Sec. 1218. Benefits based on basic pay ..... 877
Sec. 1220. Review and adjustment of classifications, grades, and pay level 878
Sec. 1221. Panama Canal Board of Appeals; duties ..... 878
Sec. 1222. Appeals to Board; procedure; finality of decisions ..... 878
Sec. 1224. Applicability of title 5, United States Code ..... 879

Subchapter III—Conditions of Employment and Placement

Sec. 1231. Transferred on reemployed employees ..... 879
Sec. 1232. Placement ..... 882
Sec. 1233. Transition separation incentive payments ..... 882

Subchapter IV—Retirement

Sec. 1241. Early retirement eligibility ..... 884
Sec. 1242. Early retirement computation ..... 884
Sec. 1243. Retirement under special treaty provisions ..... 884
Sec. 1244. Obligation of Commission for unfunded liability ..... 886
Sec. 1245. Administration of certain disability benefits ..... 886

Subchapter V—Leave

Subchapter VI—Application to Related Personnel

Sec. 1261. Law enforcement; Canal Zone Civilian Personnel Policy Coordinating Board; related employees ..... 888

Subchapter VII—Labor-Management Relations

Sec. 1271. Labor-management relations ..... 888

CHAPTER 3—FUNDS AND ACCOUNTS

Subchapter I—Funds

Sec. 1302. Panama Canal Revolving Fund ..... 890
Sec. 1303. Emergency authority ..... 892
Sec. 1304. Borrowing authority ..... 893
Sec. 1305. Dissolution of Commission ..... 893
Sec. 1306. Printing ..... 894

Subchapter II—Accounting Policies and Audits

Sec. 1311. Accounting policies ..... 895
Sec. 1313. Audits ..... 895

Subchapter III—Interagency Accounts

Sec. 1321. Interagency services; reimbursements ..... 897

Subchapter IV—Postal Matters

Sec. 1331. Postal service ..... 898

Subchapter V—Accounts With the Republic of Panama

Sec. 1341. Payment to the Republic of Panama ..... 899
Sec. 1342. Transactions with the Republic of Panama ..... 900
Sec. 1343. Disaster relief ..... 900
Sec. 1344. Congressional restraints on property transfers and expenditures 900

CHAPTER 4—CLAIMS FOR INJURIES TO PERSONS OR PROPERTY

Subchapter I—General Provisions

Sec. 1401. Settlement of claims generally ..... 902

Subchapter II—Vessel Damage

Sec. 1411. Injuries in locks of Canal ..... 902
Sec. 1412. Injuries outside locks ..... 903
Sec. 1413. Measures of damages generally ..... 904
Sec. 1414. Delays for which no responsibility is assumed ..... 905
Sec. 1415. Settlement of claims ..... 905
Sec. 1416. Actions on claims ..... 905
Sec. 1417. Investigation of accident or injury giving rise to claim ..... 906
Sec. 1418. Board of Local Inspectors ..... 906
Sec. 1419. Insurance ..... 907

CHAPTER 5—PUBLIC PROPERTY

Sec. 1501. Assets and liabilities of Panama Canal Company ..... 907
Sec. 1502. Transfers and cross-servicing between agencies ..... 907
Sec. 1503. Disposition of property of the United States ..... 908
Sec. 1504. Transfer of property to Panama ..... 908

CHAPTER 6—TOLLS FOR USE OF THE PANAMA CANAL

Sec. 1601. Prescription of measurement rules and rates of tolls ..... 909
Sec. 1602. Bases of tolls ..... 909
Sec. 1603. Calculation of interest ..... 910
Sec. 1604. Procedures ..... 911

CHAPTER 7—GENERAL REGULATIONS

CHAPTER 8—SHIPPING AND NAVIGATION

Subchapter I—Operation of Canal

Sec. 1801. Operating regulations ..... 912

Subchapter II—Inspection of Vessels

Sec. 1811. Vessels subject to inspection ..... 913
Sec. 1812. Foreign vessels ..... 913
Sec. 1813. Regulations governing inspection ..... 913

TITLE III—GENERAL PROVISIONS

CHAPTER 1—PROCUREMENT

Sec. 3101. Procurement system ..... 913
Sec. 3102. Panama Canal board of contract appeals ..... 914

CHAPTER 2—IMMIGRATION

Sec. 3201. Special immigrants ..... 916

CHAPTER 3—REPORTS; AMENDMENTS; REPEALS AND REDESIGNATION; EFFECTIVE DATE

Sec. 3301. Report ..... 916
Sec. 3302. Exemption from Metric Conversion Act of 1975 ..... 916
Sec. 3303. Repeals and redesignation ..... 916
Sec. 3304. Effective date ..... 916

## STATEMENT OF PURPOSE

SEC. 2.[3] It is the purpose of this Act to provide legislation necessary or desirable for the implementation of the Panama Canal Treaty of 1977 between the United States of America and the Republic of Panama and of the related agreements accompanying that Treaty.

## DEFINITIONS [4]

SEC. 3.[5] (a) For purposes of this Act—

(1) references to the Panama Canal Treaty of 1977 refer to the Panama Canal Treaty between the United States of America and the Republic of Panama, signed September 7, 1977; and

(2) references to the Panama Canal Treaty of 1977 and related agreements refer to the Panama Canal Treaty of 1977, the agreements relating to and implementing that Treaty,

[3] 22 U.S.C. 3601.
[4] Sec. 3548(c)(1) of Public Law 104–201 (110 Stat. 2869) struck out "DEFINITIONS AND RECOMMENDATION FOR LEGISLATION" and inserted in lieu thereof "DEFINITIONS".
[5] 22 U.S.C. 3602.

signed September 7, 1977; and the Agreement Between the United States of America and the Republic of Panama Concerning Air Traffic Control and Related Services, concluded January 8, 1979.

(b) Subject to the provisions of subsection (c) of this section, for purposes of applying laws of the United States and regulations issued pursuant to such laws[6] with respect to transactions, occurrences, or status on or after October 1, 1979—[7]

(1) "Canal Zone" shall be deemed to refer to the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements;

(2) "Canal Zone waters" and "waters of the Canal Zone" shall be deemed to refer to "Panama Canal waters" and "waters of the Panama Canal", respectively;

(3) "Government of the Canal Zone" or "Canal Zone Government" shall be deemed to refer to the United States of America;

(4) "Governor of the Canal Zone" or "Governor", wherever the reference is to the Governor of the Canal Zone, shall be deemed to refer to the Panama Canal Commission; and[8]

(5) "Panama Canal Company" or "Company", wherever the reference is to the Panama Canal Company, shall be deemed to refer to the Panama Canal Commission.[8]

(c) Any reference set forth in subsection (b) of this section shall apply except as otherwise provided in this Act or unless (1) such reference is inconsistent with the provisions of this Act, (2) in the context in which a term is used such reference is clearly not intended, or (3) a term refers to a time before October 1, 1979.[9]

(d)[10] For purposes of this Act:

(1) The term "Canal Transfer Date" means December 31, 1999, such date being the date specified in the Panama Canal

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[6] Sec. 3550(d)(1) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105–85; 111 Stat. 2074) struck out "the Canal Zone Code or other laws of the United States and regulations issued pursuant to such Code or other laws" and inserted in lieu thereof "laws of the United States and regulations issued pursuant to such laws".

[7] Sec. 3550(d)(2)(A) of Public Law 105–85 (111 Stat. 2074) struck out "the effective date of this Act" and inserted in lieu thereof "October 1, 1979".

[8] Sec. 3522(1) of Public Law 104–201 (110 Stat. 2860) inserted "and" after the semicolon at the end of para. (4), struck the semicolon at the end of para. (5) and inserted a period, and struck paras. (6) and (7), which had read as follows:

"(6) in chapter 57 of title 5 of the Canal Zone, 'hospitals' and 'health Bureau' shall be deemed to refer, respectively, to the hospitals operated by the United States in the Republic of Panama, and to the organizational unit operating such hospitals; and

"(7) in chapter 57 of title 5 of the Canal Zone Code, in section 4784 of title 6 of such Code, and in section 2 of title 7 of such Code, 'health director' shall be deemed to refer to the senior official in charge of the hospitals operated by the United States in the Republic of Panama.".

[9] Sec. 3550(d)(2)(A) of Public Law 105–85 (111 Stat. 2074) struck out "the effective date of this Act" and inserted in lieu thereof "October 1, 1979".

[10] Sec. 3512 of Public Law 105–85 (111 Stat. 2063) added the current subsec. (d). Previously, sec. 3522(2) of Public Law 104–201 (110 Stat. 2860) struck out an earlier subsec. (d), which formerly read as follows:

"(d) The President shall, within two years after the Panama Canal Treaty of 1977 enters into force, submit to the Congress a request for legislation which would—

"(1) amend or repeal provisions of law which in their present form are applicable only during the transition period prescribed in Article XI of that Treaty.

"(2) repeal the Canal Zone Code, and

"(3) contain provisions considered necessary and appropriate in light of the experience as of that time under that Treaty.".

Treaty of 1977 for the transfer of the Panama Canal from the United States of America to the Republic of Panama.

(2) The term "Panama Canal Authority" means the entity created by the Republic of Panama to succeed the Panama Canal Commission as of the Canal Transfer Date.

## TITLE I—ADMINISTRATION AND REGULATIONS

### CHAPTER 1—PANAMA CANAL COMMISSION

#### ESTABLISHMENT, PURPOSES, OFFICES, AND RESIDENCE OF COMMISSION

SEC. 1101.[11] (a) For the purposes of managing, operating, and maintaining the Panama Canal and its complementary works, installations and equipment, and of conducting operations incident thereto, in accordance with the Panama Canal Treaty of 1977 and related agreements, the Panama Canal Commission (hereinafter in this Act referred to as the "Commission") is established as a wholly owned government corporation (as that term is used in chapter 91 of title 31, United States Code) within the executive branch of the Government of the United States. The authority of the President with respect to the Commission shall be exercised through the Secretary of Defense.

(b) The principal office of the Commission shall be located in the Republic of Panama in one of the areas made available for use of the United States under the Panama Canal Treaty of 1977 and related agreements, but the Commission may establish branch offices in such other places as it considers necessary or appropriate for the conduct of its business. Within the meaning of the laws of the United States relating to venue in civil actions, the Commission is an inhabitant and resident of the District of Columbia and the eastern judicial district of Louisiana.

#### SUPERVISORY BOARD

SEC. 1102.[12] (a)[13] The Commission shall be supervised by a Board composed of nine members, one of whom shall be an officer of the Department of Defense. The officer of the Department of Defense who shall serve on the Board shall be designated by the Secretary of Defense and may continue to serve on the Board only while continuing to serve as an officer of the Department of Defense.[14] Not less than five members of the Board shall be nationals of the United States and the remaining members of the Board shall be nationals of the Republic of Panama. Three members of the

[11] 22 U.S.C. 3611. Sec. 3522(a) of Public Law 104–106 (110 Stat. 638) amended and restated sec. 1101.

[12] 22 U.S.C. 3612.

[13] Sec. 3523 of Public Law 104–106 (110 Stat. 638) amended and restated sec. 1102(a).

[14] Sec. 3511(a)(1) of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105–261; 112 Stat. 2270) struck out "The Commission shall be supervised by a Board composed of nine members, one of whom shall be the Secretary of Defense or an officer of the Department of Defense designated by the Secretary." and inserted in lieu thereof "The Commission shall be supervised by a Board composed of nine members, one of whom shall be an officer of the Department of Defense. The officer of the Department of Defense who shall serve on the Board shall be designated by the Secretary of Defense and may continue to serve on the Board only while continuing to serve as an officer of the Department of Defense.".

Board who are nationals of the United States shall hold no other office in, and shall not be employed by, the Government of the United States, and shall be chosen for the independent perspective they can bring to the Commission's affairs. Members of the Board who are nationals of the United States shall cast their votes as directed by the officer of the Department of Defense designated by the Secretary of Defense to be a member of the Board.[15]

(b) The President shall appoint the members of the Board. The members of the Board who are United States nationals shall be appointed by and with the advice and consent of the Senate. Each member of the Board shall hold office at the pleasure of the President and, before assuming the duties of such office, shall take an oath to discharge faithfully the duties of his office. Members of the Board shall serve without compensation but shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, in accordance with section 1107 of this Act, except that, in addition to such travel or transportation expenses, members of the Board who hold no other office with either the Government of the United States or the Republic of Panama for which they receive pay are authorized to be compensated at the daily equivalent of the annual rate of basic pay in effect for level V of the Executive Schedule under section 5316[16] of title 5, United States Code, for each day during which they are traveling to or from or attending meetings of the Board as provided in subsection (c) of this section[17] or, as authorized by the Chairman of the Board, while on official Panama Canal Commission business.[18]

(c) The Board shall hold meetings as provided in regulations adopted by the Commission and approved by the Secretary of Defense. A quorum for the transaction of business shall consist of a majority of the Board members of which a majority of those present are nationals of the United States. The Secretary of Defense, or the officer of the Department of Defense designated by the Secretary under subsection (a) of this section, may act by proxy for any other member of the Board if that other member authorizes the proxy in writing and signs the proxy.[19] The proxy may be counted to establish a quorum and may be used by the Secretary of Defense, or the officer of the Department of Defense designated by the Secretary under subsection (a) of this section, to cast the vote of the absent

[15] Sec. 3511(a)(2) of Public Law 105–261 (112 Stat. 2270) struck out "Secretary of Defense or a designee of the Secretary of Defense" and inserted in lieu thereof "the officer of the Department of Defense designated by the Secretary of Defense to be a member of the Board".

[16] Sec. 3504 of Public Law 101–510 (104 Stat. 1846) struck out "grade GS–18 of the General Schedule under section 5332" and inserted in lieu thereof "level V of the Executive Schedule under section 5316".

Schedule 5 of Executive Order 13368 (70 F.R. 1147; January 5, 2005) set the rate of pay for level V of the Executive Schedule at $131,400 per annum.

[17] Sec. 6 of the Panama Canal Commission Authorization Act, Fiscal Year 1986 (Public Law 99–223; 99 Stat. 1740) added the language in this subsection beginning with ", except that, in addition to such travel" and ending with "in subsection (c) of this section". See previous note for a subsequent partial amendment to this language.

[18] Sec. 5416 of title V of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203; 101 Stat. 1330–270) added "or, as authorized by the Chairman of the Board, while on official Panama Canal Commission business."

[19] Sec. 7 of Public Law 100–705 (102 Stat. 4686) struck out at this point the sentence: "Only one proxy may be valid at any one time.".

Board member and to act for that member with all the powers that member would possess if present.[20]

GENERAL POWERS OF COMMISSION

SEC. 1102a.[21] (a) The Commission may adopt, alter, and use a corporate seal, which shall be judicially noticed.

(b) The Commission may by action of the Board of Directors adopt, amend, and repeal bylaws governing the conduct of its general business and the performance of the powers and duties granted to or imposed upon it by law.

(c) The Commission may sue and be sued in its corporate name, except that—

(1) the amenability of the Commission to suit is limited by Article VIII of the Panama Canal Treaty of 1977, section 1401 of this Act, and otherwise by law;

(2) an attachment, garnishment, or similar process may not be issued against salaries or other moneys owed by the Commission to its employees except as provided by section 5520a of title 5, United States Code, and sections 459, 461, and 462 of the Social Security Act (42 U.S.C. 659, 661, 662), or as otherwise specifically authorized by the laws of the United States; and

(3) the Commission is exempt from the payment of interest on claims and judgments.

(d) The Commission may enter into contracts, leases, agreements, or other transactions.

(e) The Commission—

(1) may determine the character of, and necessity for, its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid; and

(2) may incur, allow, and pay its obligations and expenditures, subject to pertinent provisions of law generally applicable to Government corporations.

(f) The Commission shall have the priority of the Government of the United States in the payment of debts out of bankrupt estates.

(g)[22] (1) The Commission may appoint any United States citizen to have the general powers of a notary public to perform, on behalf of Commission employees and their dependents outside the United States, any notarial act that a notary public is required or authorized to perform within the United States. Unless an earlier expiration is provided by the terms of the appointment, any such appointment shall expire three months after the Canal Transfer Date.

(2) Every notarial act performed by a person acting as a notary under paragraph (1) shall be as valid, and of like force and effect within the United States, as if executed by or before a duly authorized and competent notary public in the United States.

(3) The signature of any person acting as a notary under paragraph (1), when it appears with the title of that person's office, is

[20] Public Law 98–217 (98 Stat. 9) added the third, fourth, and fifth sentences of subsec. (c). Sec. 7 of Public Law 100–705 (102 Stat. 4686) struck out the fourth sentence. See previous note.

[21] 22 U.S.C. 3612a. Sec. 3524(a) of Public Law 104–106 (110 Stat. 639) added secs. 1102a and 1102b.

[22] Sec. 3546 of Public Law 105–85 (111 Stat. 2073) redesignated subsec. (g) as subsec. (h), and added a new subsec. (g).

prima facie evidence that the signature is genuine, that the person holds the designated title, and that the person is authorized to perform a notarial act.

(h)[22] The authority of the Commission under this section and section 1102b[23] is subject to the Panama Canal Treaty of 1977 and related agreements, and to chapter 91 of title 31, United States Code.

SPECIFIC POWERS OF COMMISSION

SEC. 1102b.[24] (a) The Commission may manage, operate, and maintain the Panama Canal.

(b) The Commission may construct or acquire, establish, maintain, and operate such activities, facilities, and appurtenances as necessary and appropriate for the accomplishment of the purposes of this Act, including the following:

(1) Docks, wharves, piers, and other shoreline facilities.

(2) Shops and yards.

(3) Marine railways, salvage and towing facilities, fuel-handling facilities, and motor transportation facilities.

(4) Power systems, water systems, and a telephone system.

(5) Construction facilities.

(6) Living quarters and other buildings.

(7) Warehouses, storehouses, a printing plant, and manufacturing, processing, or service facilities in connection therewith.

(8) Recreational facilities.

(c) The Commission may use the United States mails in the same manner and under the same conditions as the executive departments of the Federal Government.

(d) The Commission may take such actions as are necessary or appropriate to carry out the powers specifically conferred upon it.

(e)[25] The Commission may conduct and promote commercial activities related to the management, operation, or maintenance of the Panama Canal. Any such commercial activity shall be carried out consistent with the Panama Canal Treaty of 1977 and related agreements.

(f)[26] (1) The Commission may seek and accept donations of funds, property, and services from individuals, foundations, corporations, and other private and public entities for the purpose of carrying out its promotional activities.

(2) The Commission shall establish written guidelines setting forth the criteria to be used in determining whether the acceptance of funds, property, or services authorized by paragraph (1) would reflect unfavorably upon the ability of the Commission (or any employee of the Commission) to carry out its responsibilities or official duties in a fair and objective manner or would compromise the integrity or the appearance of the integrity of its programs or of any official in those programs.

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[23] Sec. 3550(d)(3) of Public Law 105–85 (111 Stat. 2074) struck out "section 1102B" and inserted in lieu thereof "section 1102b".

[24] 22 U.S.C. 3612b. Sec. 3524(a) of Public Law 104–106 (110 Stat. 639) added secs. 1102a and 1102b.

[25] Sec. 3547 of Public Law 105–85 (111 Stat. 2073) added subsec. (e).

[26] Sec. 3505 of Public Law 105–261 (112 Stat. 2268) added subsec. (f).

ADMINISTRATOR

SEC. 1103.[27] (a) There shall be an Administrator of the Commission who shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold office at the pleasure of the President.

(b) The Administrator shall be paid compensation in an amount, established by the Board, not to exceed level III of the Executive Schedule.

(c)[28] The Congress consents, for purposes of the 8th clause of article I, section 9 of the Constitution of the United States, to the acceptance by the individual serving as Administrator of the Commission of appointment by the Republic of Panama to the position of Administrator of the Panama Canal Authority. Such consent is effective only if that individual, while serving in both such positions, serves as Administrator of the Panama Canal Authority without compensation, except for payments by the Republic of Panama of travel and entertainment expenses, including per diem payments.

(d)[29] If before the Canal Transfer Date the Republic of Panama appoints as the Administrator of the Panama Canal Authority the individual serving as the Administrator of the Commission and if that individual accepts the appointment—

(1) during any period during which that individual serves as both Administrator of the Commission and the Administrator of the Panama Canal Authority—

(A) the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611 et seq.), shall not apply to that individual with respect to service as the Administrator of the Panama Canal Authority;

(B) that individual, with respect to participation in any particular matter as the Administrator of the Panama Canal Commission, is not subject to section 208(a) of title 18, United States Code, insofar as that section would otherwise apply to that matter only because the matter will have a direct and predictable effect on the financial interest of the Panama Canal Authority;

(C) that individual is not subject to sections 203 and 205 of title 18, United States Code, with respect to official acts performed as an agent or attorney for or otherwise representing the Panama Canal Authority; and

(D) that individual is not subject to sections 501(a) and 502(a)(4) of the Ethics in Government Act of 1978 (5 U.S.C. App.), with respect to compensation received for,

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[27] 22 U.S.C. 3613. Sec. 3523(a) of Public Law 104–201 (110 Stat. 2860) amended and restated sec. 1103. The section formerly read as follows:

"SEC. 1103. There shall be an Administrator of the Commission, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold office at the pleasure of the President.".

Sec. 3523(b) of Public Law 104–201 provided the following:

"(b) SAVINGS PROVISIONS.—Nothing in this section (or section 3549(3)) shall be considered to affect—

"(1) the tenure of the individual serving as Administrator of the Commission on the day before subsection (a) takes effect; or

"(2) until modified under section 1103(b) of the Panama Canal Act of 1979, as amended by subsection (a), the compensation of the individual so serving.".

[28] Sec. 3521(a) of Public Law 105–85 (111 Stat. 2063) added subsec. (c).

[29] Sec. 3521(b) of Public Law 105–85 (111 Stat. 2063) added subsec. (d).

and service in, the position of Administrator of the Panama Canal Authority; and

(2) effective upon termination of the individual's appointment as Administrator of the Panama Canal Commission at noon on the Canal Transfer Date, that individual is not subject to section 207 of title 18, United States Code, with respect to acts done in carrying out official duties as Administrator of the Panama Canal Authority.

DEPUTY ADMINISTRATOR

SEC. 1104.[30] (a) There shall be a Deputy Administrator of the Commission who shall be appointed by the President. The Deputy Administrator shall perform such duties as may be prescribed by the Board.

(b) The Deputy Administrator shall be paid compensation at a rate of pay, established by the Board, which does not exceed the rate of basic pay in effect for level IV of the Executive Schedule, and, if eligible, shall be paid the overseas recruitment and retention differential provided for in section 1217 of this Act.

CONSULTATIVE COMMITTEE

SEC. 1105.[31] (a) The President shall designate, and the Secretary of State shall coordinate the participation of, representatives of the United States to the Consultative Committee to be established under paragraph 7 of Article III of the Panama Canal Treaty of 1977.

(b) The Consultative Committee shall function as a diplomatic forum for the exchange of views between the United States and the Republic of Panama. The Committee shall advise the United States Government and the Government of the Republic of Panama on matters of policy affecting the operation of the Panama Canal. The Committee shall have no authority to direct the Commission or any other department or agency of the United States to initiate or withhold action.

JOINT COMMISSION ON THE ENVIRONMENT

SEC. 1106.[32] (a) The United States and the Republic of Panama, in accordance with the Panama Canal Treaty of 1977, shall establish a Joint Commission on the Environment (hereinafter in this section referred to as the "Joint Commission") to be composed of not more than three representatives of the United States and three representatives of the Republic of Panama, or such other equivalent numbers of representatives as may be agreed upon by the Governments of the two countries. The United States members of the Joint Commission shall periodically review the implementation of

[30] 22 U.S.C. 3614. Sec. 3524(a) of Public Law 104–201 (110 Stat. 2860) amended and restated sec. 1104, which formerly also provided for appointment of a chief engineer. Sec. 3524(b) of Public Law 104–201 also stated:

"(b) SAVINGS PROVISIONS.—Nothing in this section shall be considered to affect—

"(1) the tenure of the individual serving as Deputy Administrator of the Commission on the day before subsection (a) takes effect; or

"(2) until modified under section 1104(b) of the Panama Canal Act of 1979, as amended by subsection (a), the compensation of the individual so serving.".

[31] 22 U.S.C. 3615.

[32] 22 U.S.C. 3616.

the Panama Canal Treaty of 1977 with respect to its impact on the environment and shall, jointly with the representatives of the Government of Panama, make recommendations to the United States Government and the Government of the Republic of Panama with respect to ways to avoid or mitigate adverse environmental impacts resulting from actions taken pursuant to such Treaty.

(b) Representatives of the United States on the Joint Commission shall be appointed by the President and shall serve at the pleasure of the President. Such representatives shall serve without compensation but shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, in accordance with section 1107 of this Act.

(c) Any Federal employee subject to the civil service laws and regulations who is detailed to serve with, or appointed by, the United States representatives on the Joint Commission shall not lose any pay, seniority, or other rights or benefits by reason of such detail or appointment.

(d) The United States representatives on the Joint Commission may, to such extent or in such amounts as are provided in advance in appropriation Acts, appoint and fix the compensation of such personnel as the representatives of the United States on the Joint Commission may consider necessary for the participation of the United States on the Joint Commission.

(e) The United States representatives on the Joint Commission may, in cooperation with the representatives of the Republic of Panama on the Joint Commission in conducting its affairs, subject to the approval of such rules by the Governments of the United States and the Republic of Panama.

TRAVEL EXPENSES

SEC. 1107.[33] While away from their homes, regular places of business, or official stations in performance of services under this chapter, members of the Board of the Commission and the representatives of the United States on the Consultative Committee referred to in section 1105 of this Act and on the Joint Commission on the Environment referred to in section 1106 of this Act shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

DEFENSE OF THE PANAMA CANAL

SEC. 1108.[34] In the event of an armed attack against the Panama Canal, or when, in the opinion of the President, conditions exist which threaten the security of the Canal, the Administrator of the Commission shall, upon the order of the President, comply with such directives as the United States military officer charged with the protection and defense of the Panama Canal may consider necessary in the exercise of his duties.

[33] 22 U.S.C. 3617.
[34] 22 U.S.C. 3618.

JOINT SEA LEVEL CANAL STUDY COMMITTEE

SEC. 1109.[35] (a) The President shall appoint the representatives of the United States to any joint committee or body with the Republic of Panama (to study the possibility of a sea level canal in the Republic of Panama) pursuant to Article XII of the Panama Canal Treaty of 1977.

(b) Upon the completion of any joint study between the United States and the Republic of Panama concerning the feasibility of a sea level canal in the Republic of Panama pursuant to paragraph 1 of Article XII of the Panama Canal Treaty of 1977, the test of the study shall be transmitted by the President of the Senate and to the Speaker of the House of Representatives.

(c) No construction of a sea level canal by the United States in the Republic of Panama shall be undertaken except with express congressional authorization after submission of the study by the President as provided in subsection (b) of this section.

AUTHORITY OF THE AMBASSADOR

SEC. 1110.[36] (a) The United States Ambassador to the Republic of Panama with respect to the responsibilities of the Commission for the transfer to the Republic of Panama of those functions that are to be assumed by the Republic of Panama pursuant to the Panama Canal Treaty of 1977 and related agreements.

(b)(1) The Commission shall not be subject to the direction or supervision of the United States Chief of Mission in the Republic of Panama with respect to the responsibilities of the Commission for the operation, management, or maintenance of the Panama Canal, as established in this or any other Act or in the Panama Canal Treaty of 1977 and related agreements, except that the Commission shall keep the Ambassador fully and currently informed with respect to all activities and operations of the Commission.

(2) Except as provided in paragraph (1) of this subsection, section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927)[37] shall apply with respect to the activities of the Commission.

(c)[38] (1) The Secretary of State may enter into one or more agreements to provide for the United States to furnish administrative services relating to the benefits described in paragraph (2) after December 31, 1999, and to establish appropriate procedures for providing advance funding for the services.

(2) The benefits referred to in paragraph (1) are the following:

(A) Pension, disability, and medical benefits provided by the Panama Canal Commission pursuant to section 1245.

(B) Compensation for work injuries covered by chapter 81 of title 5, United States Code.

[35] 22 U.S.C. 3619.

[36] 22 U.S.C. 3620.

[37] Sec. 3550(d)(3) of Public Law 105–85 (111 Stat. 2074) struck out "section 16 of the Act of August 1, 1956 (22 U.S.C. 2680a)," and inserted in lieu thereof "section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927)".

[38] Sec. 3506 of Public Law 105–261 (112 Stat. 2269) added subsec. (c).

SECURITY LEGISLATION

SEC. 1111.[39] It is the sense of the Congress that the best interests of the United States require that the President enter into negotiations with the Republic of Panama for the purpose of arranging for the stationing of United States military forces, after the termination of the Panama Canal Treaty of 1977, in the area comprising the Canal Zone before the effective date of this Act, and for the maintenance of installations and facilities, after the termination of such Treaty, for the use of United States military forces stationed in such area. The President shall report to the Congress in a timely manner the status of negotiations conducted pursuant to this section.

CODE OF CONDUCT FOR COMMISSION PERSONNEL

SEC. 1112.[40] (a) Before assuming the duties of his office or employment, each member of the Board of the Commission and each officer and employee of the Commission shall take an oath to discharge faithfully the duties of his office or employment. All employees of the Commission shall be subject to the laws of the United States regarding duties and responsibilities of Federal employees.

(b) Not later than 60 days after all the members of the Board of the Commission have been appointed, the Board shall adopt a code of conduct applicable to the persons referred to in subsection (a) of this section. The code of conduct shall contain provisions substantially equivalent to those contained in part 735 of title 5 of the Code of Federal Regulations on October 1, 1979.[41] The code of conduct shall, at a minimum, contain provisions substantially equivalent to the following provisions of law:

(1) the provisions of chapter 11 of title 18, United States Code, as amended, relating to bribery, graft, or conflicts of interest, as appropriate to the employees concerned;

(2) section 7352 of title 5, United States Code, as amended;

(3) sections 207, 208, 285, 508, 641, 645, 1001, 1917, and 2071 of title 18, United States Code, as amended;

(4) section 5 of the Act of July 16, 1914 (31 U.S.C. 638a), as amended;

(5) the Ethics in Government Act of 1978 (92 Stat. 1824), as amended; and

(6) those provisions of the laws and regulations of the Republic of Panama which are substantially equivalent to those of the United States set forth in this subsection.

(c) The Commission shall investigate any allegations regarding the violation of the code of conduct adopted pursuant to subsection (b) of this section. The Commission may recommend that the President suspend from the performance of his duties any member of the Board of the Commission or any officer or employee of the Commission, pending judicial proceedings by appropriate authorities concerning such allegations.

[39] 22 U.S.C. 3621.

[40] 22 U.S.C. 3622.

[41] Sec. 3550(d)(2)(A) of Public Law 105–85 (111 Stat. 2074) struck out "the effective date of this Act" and inserted in lieu thereof "October 1, 1979".

(d) The President shall negotiate suitable arrangements with the Republic of Panama whereby each nation shall agree to take all measures within its legal authority to assure that members of the Board of the Commission comply with the code of conduct established pursuant to subsection (b) of this section. Without prejudice to such jurisdiction as the United States may have with respect to members of the Board, the provisions of law enumerated in subsection (b) of this section shall be enforced with respect to members of the Board only in accordance with such arrangements.

(e)[42] (1) Section 207 of title 18, United States Code, does not apply to a covered individual with respect to acts done in carrying out official duties as an officer or employee of the Panama Canal Authority.

(2) For purposes of paragraph (1), a covered individual is an officer or employee of the Panama Canal Authority who was an officer or employee of the Commission (other than the Administrator) and whose employment with the Commission terminated at noon on the Canal Transfer Date.

(3) This subsection is effective as of the Canal Transfer Date.

(f)[43] (1) The Congress consents to the following persons accepting civil employment (and compensation for that employment) with the Panama Canal Authority for which the consent of the Congress is required by the last paragraph of section 9 of article I of the Constitution of the United States, relating to acceptance of emoluments, offices, or titles from a foreign government:

(A) Retired members of the uniformed services.

(B) Members of a reserve component of the armed forces.

(C) Members of the Commissioned Reserve Corps of the Public Health Service.

(2) The consent of the Congress under paragraph (1) is effective without regard to subsection (b) of section 908 of title 37, United States Code (relating to approval required for employment of Reserve and retired members by foreign governments).

OFFICE OF OMBUDSMAN

SEC. 1113.[44] (a) There established within the Commission an Office of Ombudsman, to be directed by an Ombudsman, who shall be appointed by the Commission. It shall be the function of the Office of Ombudsman to receive individual complaints, grievances, requests, and suggestions of employees (and their dependents), of the Commission and other departments and agencies of the United States, including the Smithsonian Institution, conducting operations before the effective date of this Act in the area then comprising the Canal Zone concerning administrative problems, inefficiencies, and conflicts caused within departments and agencies of the United States, including the Smithsonian Institution, as a result of the implementation of the Panama Canal Treaty of 1977 and related agreements.

[42] Sec. 3522(a) of Public Law 105–85 (111 Stat. 2064) added subsec. (e).
[43] Sec. 3522(b) of Public Law 105–85 (111 Stat. 2064) added subsec. (f).
[44] 22 U.S.C. 3623.

(b) The Ombudsman shall make findings and render assistance with respect to the complaints, grievances, requests, and suggestions submitted to the Office of Ombudsman, and shall make appropriate recommendations to the Commission or any other department or agency of the United States, including the Smithsonian Institution.

(c) The establishment of the Office of Ombudsman shall not affect any procedures for grievances, appeals, or administrative matters in any other provision of this Act, any other provision of law, or any Federal regulation.

(d)[45] The Office of Ombudsman shall terminate upon the termination of the Panama Canal Treaty of 1977.

## CHAPTER 2—EMPLOYEES

### Subchapter I—Panama Canal Commission Personnel

#### DEFINITIONS

SEC. 1201.[46] As used in this chapter—

(1) "Executive agency" has the meaning given that term in section 105 of title 5, United States Code;

(2) "uniformed services" has the meaning given the term in section 2101(3) of title 5, United States Code;

(3) "competitive service" has the meaning given that term in section 2102 of title 5, United States Code; and

(4) "United States" when used in a geographic sense, means each of the several States and the District of Columbia.

#### APPOINTMENT AND COMPENSATION; DUTIES

SEC. 1202.[47] (a) In accordance with this chapter, the Commission may appoint, fix the compensation of, and define the authority and duties of officers and employees (other than the Administrator and Deputy Administrator) necessary for the management, operation, and maintenance of the Panama Canal and its complementary works, installations, and equipment.

(b) Individuals serving in any Executive agency (other than the Commission) or the Smithsonian Institution, including individuals

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[45] Sec. 3525 of Public Law 104–201 (110 Stat. 2861) struck out subsec. (d) and redesignated former subsec. (e) as subsec. (d). Former subsec. (d) required the Ombudsman to be a U.S. citizen.

[46] 22 U.S.C. 3641. Sec. 3504 of the Panama Canal Commission Authorization Act for Fiscal Year 1994 (title XXXV of the National Defense Authorization Act for Fiscal Year 1994; Public Law 103–160; 107 Stat. 1965) provides the following:

"SEC. 3504. EMPLOYMENT OF COMMISSION EMPLOYEES BY THE GOVERNMENT OF PANAMA.

"(a) CONSENT OF CONGRESS.—Subject to subsection (b), the Congress consents to employees of the Panama Canal Commission who are not citizens of the United States accepting civil employment with agencies and organizations affiliated with the Government of Panama (and compensation for that employment) for which the consent of Congress is required by the 8th clause of section 9 of article I of the Constitution of the United States, relating to acceptance of emolument, office, or title from a foreign State.

"(b) CONDITION.—Employees described in subsection (a) may accept employment described in such subsection (and compensation for that employment) only if the employment is approved by the designated agency ethics official of the Panama Canal Commission designated pursuant to the Ethics in Government Act of 1978 (5 U.S.C. App.), and by the Administrator of the Panama Canal Commission.".

[47] 22 U.S.C. 3642. Sec. 3526 of Public Law 104–201 (110 Stat. 2861) amended and restated sec. 1202.

in the uniformed services, may, if appointed under this section or section 1104 of this Act, serve as officers or employees of the Commission.

(c)[48] In the case of an individual who is an officer or employee of the Commission on November 17, 1997,[49] and who has not had a break in service with the Commission since that date, the rate of basic pay for that officer or employee[50] may not be less than the rate in effect for that officer or employee on that date[51] except—

(1) as provided in a collective bargaining agreement;

(2) as a result of an adverse action against the officer or employee; or

(3) pursuant to a voluntary demotion.

TRANSFER OF FEDERAL EMPLOYEES

SEC. 1203.[52] (a) The head of any agency may enter into agreements for the transfer or detail to the Commission of any employee of that agency serving under a permanent appointment. Any employee who so transfers or is so detailed shall, upon completion of the employee's tour of duty with the Commission, be entitled to reemployment with the agency from which the employee was transferred or detailed without loss of pay, seniority, or other rights or benefits to which the employee would have been entitled had the employee not been so transferred or been so detailed.

(b) For purposes of this section, the term "agency" means an Executive agency, the United States Postal Service, and the Smithsonian Institution.

(c) The Office of Personnel Management shall prescribe regulations to carry out the purposes of this section.

COMPENSATION OF INDIVIDUALS IN THE UNIFORMED SERVICES

SEC. 1204.[53] (a) Except as provided in subsection (b) of this section, any individual who is serving in a position in the Commission and who is a member of a uniformed service shall continue to be paid basic pay by such uniformed service and shall not be paid by the Commission for the period of the service in the uniformed service involved.

(b) If the individual appointed as Administrator, Deputy Administrator, or Chief Engineer of the Commission is a member of a uniformed service, the amount of basic pay otherwise payable to the individual for service in that position shall be reduced, up to the amount of that basic pay, by the amount of the basic pay payable to the individual as a member of a uniformed service.

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[48] Sec. 3523(b) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105–85; 111 Stat. 2065) added subsec. (c).

[49] Sec. 3512(a)(1)(A) of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105–261; 112 Stat. 2271) struck out "the day before the date of the enactment of the Panama Canal Transition Facilitation Act of 1997" and inserted in lieu thereof "November 17, 1997,".

[50] Sec. 3512(a)(1)(B) of Public Law 105–261 (112 Stat. 2271) struck out "on or after that date" at this point.

[51] Sec. 3512(a)(1)(C) of Public Law 105–261 (112 Stat. 2270) struck out "the day before the date of enactment" and inserted in lieu thereof "that date".

[52] 22 U.S.C. 3643.

[53] 22 U.S.C. 3644.

(c) The Commission shall annually pay to each uniformed service amounts sufficient to reimburse that uniformed service for any basic pay paid by that uniformed service to any member of that service during any period of service in the Commission by the member.

DEDUCTION FROM BASIC PAY OF AMOUNTS DUE FOR SUPPLIES OR SERVICES

SEC. 1205.[54] The Commission may deduct from the basic pay otherwise payable by the Commission to any officer or employee of the Commission any amount due from the officer or employee to the Commission or to any contractor of the Commission for transportation, board, supplies, or any other service. Any amount so deducted may be paid by the Commission to any contractor to whom it is due or may be credited by the Commission to any fund[55] from which the Commission has expended such amount.

SEC. 1206.[56] * * * [Repealed—1999]

SEC. 1207.[57] * * * [Repealed—1999]

PRIVILEGES AND IMMUNITIES OF CERTAIN EMPLOYEES

SEC. 1208.[58] The Secretary of Defense shall designate those officers and employees of the Commission and other individuals entitled to the privileges and immunities accorded under paragraph 3 or Article VIII of the Panama Canal Treaty of 1977. The Department of State shall furnish to the Republic of Panama a list of the names of such officers, employees, and other individuals and shall notify the Republic of Panama of any subsequent additions to or deletions from the list.

APPLICABILITY OF CERTAIN BENEFITS

SEC. 1209.[59] Chapter 81 of title 5, United States Code, relating to compensation for work injuries, chapters 83 and 84 of such title 5, relating to retirement, chapter 87 of such title 5, relating to life insurance, and chapter 89 of such title 5, relating to health insurance, are applicable to Commission employees, except any individual—

(1) who is not a citizen of the United States;

(2) whose initial appointment by the Commission occurs after October 1, 1979; and

(3) who is covered by the Social Security System of the Republic of Panama pursuant to any provision of the Panama Canal Treaty of 1977 and related agreements.

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[54] 22 U.S.C. 3645.

[55] Sec. 3529(1) of Public Law 104–106 (110 Stat. 642) struck out "appropriation" and inserted in lieu thereof "fund".

[56] Formerly at 22 U.S.C. 3646. Sec. 3507 of Public Law 105–261 (112 Stat. 2269) repealed sec. 1206, relating to cost of living allowance, effective 11:59 p.m. (Eastern Standard Time), December 30, 1999.

[57] Formerly at 22 U.S.C. 3647. Sec. 3507 of Public Law 105–261 (112 Stat. 2269) repealed sec. 1207, relating to educational travel benefits, effective 11:59 p.m. (Eastern Standard Time), December 30, 1999.

[58] 22 U.S.C. 3648.

[59] 22 U.S.C. 3649. Sec. 3527 of Public Law 104–201 (110 Stat. 2861) amended and restated sec. 1209.

## Subchapter II—Wage and Employment Practices

### AIR TRANSPORTATION

SEC. 1210.[60] (a) Notwithstanding any other provision of law (except subsection (b)),[61] the Commission may contract with Panamanian carriers registered under the laws of the Republic of Panama to provide air transportation to officials and employees of the Commission who are citizens of the Republic of Panama.

(b) An[62] official or employee of the Commission who is a citizen of the Republic of Panama[63] may elect, for security or other reasons, to travel by an air carrier holding a certificate under section 41102 of title 49, United States Code.

### DEFINITIONS

SEC. 1211.[64] As used in this subchapter—

(1) "agency" means—

(A) the Commission, and

(B)[65] any other Executive agency or the Smithsonian Institution, to the extent of any election in effect under section 1212(b)[66] of this Act;

(2) "position" means a civilian position in the Commission, or in any other agency if a substantial portion of the duties and responsibilities are performed in the Republic of Panama; and

(3) "employee" means an individual serving in a position.

### PANAMA CANAL EMPLOYMENT SYSTEM; MERIT AND OTHER EMPLOYMENT REQUIREMENTS

SEC. 1212.[67] (a) The Commission shall establish a Panama Canal Employment System and prescribe the regulations necessary for its administration. The Panama Canal Employment System shall—

(1) be established in accordance with and be subject to the provisions of the Panama Canal Treaty of 1977 and related agreements, the provisions of this chapter, and any other applicable provision of law;

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[60] 22 U.S.C. 3650. Sec. 5(b)(1) of Public Law 99–223 (99 Stat. 1739) originally added this section. Sec. 3528 of Public Law 104–201 (110 Stat. 2861) later amended and restated this section. Sec. 3524 of Public Law 105–85 (111 Stat. 2065) subsequently struck out subsecs. (a), (b), and (c) of the section, redesignated remaining subsec. (d)(1) as subsec. (a), subsec. (d)(2) as subsec. (b), and restated the section catchline from "TRAVEL AND TRANSPORTATION" to "AIR TRANSPORTATION".

[61] Sec. 3524(b)(1)(A) of Public Law 105–85 (111 Stat. 2065) struck out "paragraph (2)" and inserted in lieu thereof "subsection (b)".

[62] Sec. 3524(b)(1)(B)(i) of Public Law 105–85 (111 Stat. 2065) struck out "Notwithstanding paragraph (1), an" and inserted in lieu thereof "An".

[63] Sec. 3524(b)(1)(B)(ii) of Public Law 105–85 (111 Stat. 2065) struck out "referred to in paragraph (1)" and inserted in lieu thereof "who is a citizen of the Republic of Panama".

[64] 22 U.S.C. 3651.

[65] Sec. 3529 of Public Law 104–201 (110 Stat. 2862) amended and restated sec. 1211(1)(B).

[66] Sec. 3548(b)(1) of Public Law 104–201 (110 Stat. 2869) struck out "section 1212(B)(2)" and inserted in lieu thereof "section 1212(b)".

[67] 22 U.S.C. 3652. Sec. 3530(a) of Public Law 104–201 (110 Stat. 2862) amended and restated sec. 1212. Sec. 3530(b) of that Act further provided:

"(b) SAVINGS PROVISIONS.—The Panama Canal Employment System and all elections, rules, regulations, and orders relating thereto, as last in effect before the amendment made by subsection (a) takes effect, shall continue in effect, according to their terms, until modified, terminated, or superseded under section 1212 of the Panama Canal Act of 1979, as amended by subsection (a).".

(2) be based on the consideration of the merit of each employee or candidate for employment and the qualifications and fitness of the employee to hold the position concerned;

(3) conform, to the extent practicable and consistent with the provisions of this Act, to the policies, principles, and standards applicable to the competitive service;

(4) in the case of employees who are citizens of the United States, provide for the appropriate interchange of those employees between positions under the Panama Canal Employment System and positions in the competitive service; and

(5) not be subject to the provisions of title 5, United States Code, unless specifically made applicable by this Act.

(b)(1) The head of any Executive agency (other than the Commission) and the Smithsonian Institution may elect to have the Panama Canal Employment System made applicable in whole or in part to personnel of that agency in the Republic of Panama.

(2) Any Executive agency (other than the Commission) and the Smithsonian Institution, to the extent of any election under paragraph (1), shall conduct its employment and pay practices relating to employees in accordance with the Panama Canal Employment System.

(3) Notwithstanding any other provision of this Act, the Panama Canal Act Amendments of 1996 (subtitle B of title XXXV of Public Law 104–201; 110 Stat. 2860), or the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105–85; 110 Stat. 2062), or the Panama Canal Commission Authorization Act for Fiscal Year 1999,[68] this subchapter, as in effect on September 22, 1996,[69] shall continue to apply to an Executive agency or the Smithsonian Institution to the extent of an election under paragraph (1) by the head of the[70] agency or the Institution, respectively.

(c) The Commission may exclude any employee or position from coverage under any provision of this subchapter, other than the interchange rights extended under subsection (a)(4).

EMPLOYMENT STANDARDS

SEC. 1213.[71] The Commission[72] shall establish written standards for—

(1) determining the qualifications and fitness of employees and of candidates for employment in positions; and

(2) selecting individuals for appointment, promotion, or transfer to positions.

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[68] Sec. 3523(d) of Public Law 105–85 (111 Stat. 2065) struck out "or the Panama Canal Act Amendments of 1996" and inserted in lieu thereof ", the Panama Canal Act Amendments of 1996 (subtitle B of title XXXV of Public Law 104–201; 110 Stat. 2860), or the Panama Canal Transition Facilitation Act of 1997". Sec. 3507(c) of Public Law 105–261 (112 Stat. 2269) struck out "the Panama Canal Transition Facilitation Act of 1997" and inserted in lieu thereof "the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105–85; 110 Stat. 2062), or the Panama Canal Commission Authorization Act for Fiscal Year 1999".

[69] Sec. 3550(d)(3) of Public Law 105–85 (111 Stat. 2074) struck out "as last in effect before the effective date of section 3530 of the Panama Canal Act Amendments of 1996" and inserted in lieu thereof "as in effect on September 22, 1996".

[70] Sec. 3512(a)(2) of Public Law 105–261 (112 Stat. 2271) inserted "the" after "by the head of".

[71] 22 U.S.C. 3653.

[72] Sec. 3531 of Public Law 104–201 (110 Stat. 2863) struck out "The head of each agency" and inserted in lieu thereof "The Commission".

The standards shall conform to the provisions of this subchapter, and regulations prescribed thereunder, and the Panama Canal Employment System.

SEC. 1214.[73] * * * [Repealed—1996]

SEC. 1215.[74] * * * [Repealed—1997]

UNIFORM APPLICATION OF STANDARDS AND RATES

SEC. 1216.[75] The standards established pursuant to section 1213 of this Act and the rates of basic pay established pursuant to section 1202[76] of the Act shall be applied without regard to whether the employee or individual concerned is a citizen of the United States or a citizen of the Republic of Panama.

RECRUITMENT AND RETENTION REMUNERATION

SEC. 1217.[77] (a) * * * [Repealed—1999]

(b) Any employee described in more than one paragraph of subsection (a) of this section may qualify for a recruitment or retention differential under only one of those paragraphs.

(c)[78] (1) The Commission may pay a recruitment bonus to an individual who is newly appointed to a position with the Commission, or a relocation bonus to an employee of the Commission who must relocate to accept a position, if the Commission determines that the Commission would be likely, in the absence of such a bonus, to have difficulty in filling the position.

(2) A recruitment or relocation bonus may be paid to an employee under this subsection only if the employee enters into an agreement with the Commission to complete a period of employment established in the agreement. If the employee voluntarily fails to complete such period of employment or is separated from service in such employment as a result of an adverse action before the completion of such period, the employee shall repay the entire amount of the bonus.

(3) A recruitment or relocation bonus under this subsection may be paid as a lump sum. A bonus under this subsection may not be considered to be part of the basic pay of an employee.

(d)[78] (1) The Commission may pay a retention bonus to an employee of the Commission if the Commission determines that—

(A) the employee has unusually high or unique qualifications and those qualifications make it essential for the Commission to retain the employee for a period specified by the Commission ending not later than the Canal Transfer Date, or the

[73] Formerly at 22 U.S.C. 3654. Sec. 3533 of Public Law 104–201 (110 Stat. 2863) repealed sec. 1214, relating to an interim application of a canal zone merit system.

[74] Formerly at 22 U.S.C. 3655. Sec. 3523(a)(1) of Public Law 105–85 (111 Stat. 2064) repealed sec. 1215, relating to basic pay.

[75] 22 U.S.C. 3656.

[76] Sec. 3523(c)(1) of Public Law 105–85 (111 Stat. 2065) struck out "1215" and inserted in lieu thereof "1202".

[77] 22 U.S.C. 3657. Sec. 3533 of Public Law 104–201 (110 Stat. 2863) struck out former subsec. (d) of this section, which related to the inapplicability of certain overseas differentials and pay allowances to those employed by an agency whose duty station is Panama. Sec. 3507 of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105–261; 112 Stat. 2269) struck out subsec. (a), relating to recruitment compensation of essential personnel, effective 11:59 p.m. (Eastern Standard Time), December 30, 1999.

[78] Sec. 3525(a) of Public Law 105–85 (111 Stat. 2066) redesignated subsec. (c) as subsec. (e), and added new subsecs. (c) and (d).

Commission otherwise has a special need for the services of the employee making it essential for the Commission to retain the employee for a period specified by the Commission ending not later than the Canal Transfer Date; and

(B) the employee would be likely to leave employment with the Commission before the end of that period if the retention bonus is not paid.

(2) A retention bonus under this subsection—

(A) shall be in a fixed amount;

(B) shall be paid on a pro rata basis (over the period specified by the Commission as essential for the retention of the employee), with such payments to be made at the same time and in the same manner as basic pay; and

(C) may not be considered to be part of the basic pay of an employee.

(3) A decision by the Commission to exercise or to not exercise the authority to pay a bonus under this subsection shall not be subject to review under any statutory procedure or any agency or negotiated grievance procedure except under any of the laws referred to in section 2302(d) of title 5, United States Code.

(e)[78] Additional compensation provided under this section may not exceed 25 percent of the rate of basic pay of the individual to whom the compensation is paid.[79]

QUARTERS ALLOWANCE

SEC. 1217a.[80] (a) Notwithstanding paragraphs (2) and (3) of section 1211 of this Act, as used in this section—

(1) "position" means a civilian position; and

(2) "employee" means an individual serving in a position in the Department of Defense whose permanent duty station is in the area which, before October 1, 1979, was known as the Canal Zone.

(b) Under regulations prescribed by or under authority of the President, the Department of Defense may grant a quarters allowance in the case of—

(1) any employee who is a citizen of the United States and who, before October 1, 1979, was employed by the Panama Canal Company, the Canal Zone Government, or any other agency, in the area then known as the Canal Zone; and

(2) any other employee who is a citizen of the United States and who (before, on, or after the effective date of this section) is or was recruited within the United States;

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[79] Sec. 3525(a)(2) of Public Law 105–85 (111 Stat. 2066) struck out "for the same or similar work performed in the United States by individuals employed by the Government of the United States" and inserted in lieu thereof "of the individual to whom the compensation is paid".

[80] 22 U.S.C. 3657a. Executive Order 12520 (50 F.R. 25683; June 21, 1985) provided the following:

"QUARTERS ALLOWANCES TO DEPARTMENT OF DEFENSE EMPLOYEES IN PANAMA

"By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 1217a of the Panama Canal Act of 1979 (22 U.S.C. 3657a), it is hereby ordered as follows:

"Section 1. The Secretary of Defense is authorized to prescribe the regulations referred to in section 1217a of the Panama Canal Act of 1979, relating to quarters allowances.

"Sec. 2. The regulations prescribed under Section 1 shall be consistent with Article VII(4) of the Agreement in Implementation if Article IV of the Panama Canal Treaty and with all other relevant provisions of the Panama Canal Treaty and related agreements.".

for whom adequate Government owned or leased quarters are not made available.

(c) The amount of any quarters allowance granted to an employee under this section shall be determined in accordance with the regulations prescribed under subsection (b) of this section, except that such allowance for any period may not exceed the amount, if any, by which—

(1) the lesser of—

(A) the actual expenses for rent and utilities incurred by the employee during such period while occupying quarters other than Government owned or leased quarters; or

(B) the maximum amount which would be authorized for such employee with respect to such period under the Department of State Standardized Regulations (Government Civilians, Foreign Areas) if such employee were covered by those regulations;

exceeds

(2) the estimated total cost of rent and utilities which the employee would have been charged if Government owned or leased quarters had been provided on a rental basis during such period.

(d) The provisions of this section shall apply without regard to whether any election by the Department of Defense under section 1212(b) of this Act is then in effect.

BENEFITS BASED ON BASIC PAY

SEC. 1218.[81] For the purposes of determining—

(1) amounts of compensation for disability or death under chapter 81 of title 5, United States Code, relating to compensation for work injuries;

(2)[82] benefits under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, relating to retirement;

(3) amounts of insurance under chapter 87 of title 5, United States Code, relating to life insurance;

(4) amounts of overtime pay or other premium pay;

(5) annual leave benefits; and

(6) any other benefits related to basic pay;

the basic pay of each employee shall include the rate of basic pay established for his position under section 1202[83] of this Act plus the amount of any additional compensation provided under section 1217(a)[83] of this Act.

SEC. 1219.[84] * * * [Repealed—1997]

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[81] 22 U.S.C. 3658. Sec. 3507(b) of Public Law 105–261; 112 Stat. 2269) provided the following: "(b) SAVINGS PROVISION FOR BASIC PAY.—Notwithstanding subsection (a), benefits based on basic pay, as listed in paragraphs (1), (2), (3), (5), and (6) of section 1218 of the Panama Canal Act of 1979, shall be paid as if sections 1217(a) and 1231(a)(2)(A) and (B) of that Act had been repealed effective 12:00 noon, December 31, 1999. The exception under the preceding sentence shall not apply to any pay for hours of work performed on December 31, 1999.".

[82] Sec. 3534 of Public Law 104–201 (110 Stat. 2863) amended and restated para. (2).

[83] Sec. 3523(c)(2) of Public Law 105–85 (111 Stat. 2065) struck out "1215" and "1217" and inserted, respectively, "1202" and "1217(a)".

[84] Formerly at 22 U.S.C. 3659. Sec. 3523(a)(2) of Public Law 105–85 (111 Stat. 2064) repealed sec. 1219, relating to salary protection upon conversion of pay rate.

REVIEW AND ADJUSTMENT OF CLASSIFICATIONS, GRADES, AND PAY LEVEL

SEC. 1220.[85] An employee may request at any time that the employee's agency—

(1) review the classification of the employee's position or the grade or pay level for the employee's position, or both; and

(2) revise or adjust that classification, grade or pay level, or both, as the case may be.

The request for review and revision or adjustment shall be submitted and adjudicated in accordance with the regularly established appeals procedures of the agency.

PANAMA CANAL BOARD OF APPEALS; DUTIES

SEC. 1221.[86] (a) Subject to the provisions of this chapter, the Commission[87] shall prescribe regulations establishing a Panama Canal Board of Appeals. The regulations shall provide for the number of members of the Board and their appointment, compensation, and terms of office, the selection of a Chairman of the Board, the appointment and compensation of the Board's employees, and other appropriate matters relating to the Board.

(b) The Board shall review and determine the appeals of employees in accordance with section 1222 of this Act. The decisions of the Board shall conform to the provisions of this subchapter.

APPEALS TO BOARD; PROCEDURES; FINALITY OF DECISIONS

SEC. 1222.[88] (a) An employee may appeal to the Panama Canal Board of Appeals from an adverse determination made by an agency under section 1220 of this Act. The appeal shall be made in writing within a reasonable time (as specified in regulations prescribed by, or under the authority of, the Commission[87]) after the date of the transmittal by the agency to the employee of written notice of the adverse determination.

(b) The Board may authorize, in connection with an appeal pursuant to subsection (a) of this section, a personal appearance before the Board by the employee, or by a representative of the employee designated for that purpose.

(c) After investigation and consideration of the evidence submitted, the Board shall—

(1) prepare a written decision on the appeal;

(2) transmit its decision to the agency concerned; and

(3) transmit copies of the decision to the employee concerned or to the designated representative.

(d) The decision of the Board on any question or other matter relating to an appeal is final and conclusive. The agency concerned shall take action in accordance with the decision of the Board.

SEC. 1223.[89] * * * [Repealed—1998]

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[85] 22 U.S.C. 3660.

[86] 22 U.S.C. 3661.

[87] Sec. 3548 of Public Law 105–85 (111 Stat. 2073) struck out "President" and inserted in lieu thereof "Commission".

[88] 22 U.S.C. 3662.

[89] Formerly at 22 U.S.C. 3663. Sec. 3508(a) of Public Law 105–261 (112 Stat. 2269) repealed sec. 1223, relating to establishment of a central examining office. Previously, sec. 3535 of Public Law 104–201 (110 Stat. 2863) amended and restated sec. 1223.

APPLICABILITY OF TITLE 5, UNITED STATES CODE

SEC. 1224.[90] The following provisions of title 5, United States Code, apply to the Panama Canal Commission:

(1) Part I of title 5 (relating to agencies generally).

(2) Chapter 21 (relating to employee definitions).

(3) Section 2302(b)(8) (relating to whistleblower protection) and all provisions of title 5 relating to the administration or enforcement or any other aspect thereof, as identified in regulations prescribed by the Commission in consultation with the Office of Personnel Management.

(4) All provisions relating to preference eligibles.

(5) Section 5514 (relating to offset from salary).

(6) Section 5520a (relating to garnishments).

(7) Sections 5531–5535 (relating to dual pay and employment).

(8) Subchapter VI of chapter 55 (relating to accumulated and accrued leave).

(9) Subchapter IX of chapter 55 (relating to severance and back pay).

(10)[90] Chapter 59 (relating to allowances).

(11) * * *

(12)[90,91] Section 6323 (relating to military leave; Reserves and National Guardsmen).

(13)[90] Chapter 71 (relating to labor relations).

(14)[90] Subchapters II and III of chapter 73 (relating to employment limitations and political activities, respectively) and all provisions of title 5 relating to the administration or enforcement or any other aspect thereof, as identified in regulations prescribed by the Commission in consultation with the Office of Personnel Management.

(15)[90] Chapter 81 (relating to compensation for work injuries).

(16)[90] Chapters 83 and 84 (relating to retirement).

(17)[90] Chapter 85 (relating to unemployment compensation).

(18)[90] Chapter 87 (relating to life insurance).

(19)[90] Chapter 89 (relating to health insurance).

SEC. 1225.[92] * * * [Repealed—1997]

## Subchapter III—Conditions of Employment and Placement

TRANSFERRED OR REEMPLOYED EMPLOYEES

SEC. 1231.[93] (a)[94] (1) With respect to any individual employed in the Panama Canal Company or the Canal Zone Government—

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[90] 22 U.S.C. 3664. Sec. 3536 of Public Law 104–201 (110 Stat. 2864) amended and restated sec. 1224. Sec. 3524(a)(2) of Public Law 105–85 (111 Stat. 2065) struck out para. (10), relating to 5 U.S.C. chapter 57, and renumbered paras. (11) through (20) as paras. (10) through (19), respectively.

[91] Sec. 3507 of Public Law 105–261 (112 Stat. 2269) struck out para. (11), effective 11:59 p.m. (Eastern Standard Time), December 30, 1999. Para. (11) formerly read as follows: "Chapter 63 (relating to leave for CONUS employees)."

[92] Formerly at 22 U.S.C. 3665. Sec. 3523(a)(3) of Public Law 105–85 (111 Stat. 2065) repealed sec. 1225, relating to minimum level of pay; minimum annual increases.

[93] 22 U.S.C. 3671.

[94] Sec. 3537 of Public Law 104–201 (110 Stat. 2864) repealed subsec. (a)(3), which had provided, in part, "(C) Effective October 1, 1979, any individual who, but for subparagraph (B) of

Continued

(A) who is transferred—

(i) to a position in the Commission; or

(ii) to a position in an Executive agency or in the Smithsonian Institution the permanent duty station of which is in the Republic of Panama (including the area known before October 1, 1979, as the Canal Zone); or

(B) who is separated by reason of a reduction in force on September 30, 1979, and is appointed to a position in the Commission before April 1, 1980;

the terms and conditions of employment set forth in paragraph (2) of this subsection shall be generally no less favorable, on or after the date of the transfer referred to in subparagraph (A) of this paragraph or the date of the appointment referred to in subparagraph (B) of this paragraph as the case may be, than the terms and conditions of employment with the Panama Canal Company and Canal Zone Government on September 30, 1979, or, in the case of a transfer described in subparagraph (A)(ii) of this paragraph which takes place before that date, on the date of the transfer.

(2)[95] The terms and conditions of employment referred to in paragraph (10 of this subsection are the following:

(C) premium pay and night differential;

(D) reinstatement and restoration rights;

(E) injury and death compensation benefits;

(I) reduction-in-force rights;

(J) an employee grievance system, and the right to appeal adverse and disciplinary actions and positions classification actions;

(K) veterans' preference eligibility;

(L) holidays;

(M) severance pay benefits.

(b) Any individual described in subsection (a)(1)(B) of this section who would have met the service requirement for early retirement benefits under section 8336(i) or 8339(d)(2) of title 5, United States Code (as amended by sections 1241(a) and 1242 of this Act, respectively), but for a break in service of more than 3 days immediately after September 30, 1979, shall be considered to meet that requirement. Any break in service by any such individual for purposes of section 8332 of such title 5 during the period beginning September 30, 1979, and ending on the date of the appointment referred to in such subsection (a)(1)(B) shall be considered a period of creditable service under such section 8332 for such individual, except that such period shall not be taken into account for purposes of determining average pay (as defined in section 8331(4) of such title 5) and no deduction, contribution, or deposit shall be required for that period under section 8334 of such title 5.

(c)(1) Section 5(c) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 903(c)) shall not apply

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this paragraph, would have been entitled to one or more payments pursuant to this subsection for periods before October 1, 1979, shall be entitled, to the extent or in such amounts as are provided in advance in appropriation Acts, to a lump sum payment equal to the total amount of all such payments.".

[95] Sec. 3507(a) of Public Law 105–261 (112 Stat. 2269) struck out subparas. (A) (rates of basic pay), (B) (tropical differential), (F) (leave and travel), (G) (transportation and repatriation benefits), and (H) (group health and life insurance), effective 11:59 p.m. (Eastern Standard Time), December 30, 1999.

with respect to any teacher who was employed by the Canal Zone Government school system on September 30, 1979, and who was transferred from such position to a teaching position which is under the Department of Defense Overseas Dependent School System and the permanent duty station of which is in the Republic of Panama, until the rates of basic compensation established under section 5(c) of such Act equal or exceed the rates of basic compensation then in effect for teachers who were so transferred.

(2) Section 6(a)(2) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 904(a)(2)) shall not apply with respect to any teacher who was employed by the Canal Zone Government school system on September 30, 1979, and who was transferred from such position to a teaching position which is under the Department of Defense Overseas Dependent School System and the permanent duty station of which is in the Republic of Panama.

(3)(A) The head of a department or agency of the United States may grant a sabbatical to any teacher to whom paragraph (1) of this subsection applies for not to exceed 11 months in order to permit the teacher to engage in study or uncompensated work experience which is in the United States and which will contribute to the teacher's development and effectiveness. Basic compensation shall be paid to teachers on sabbatical under this section in the same manner and to the same extent as basic compensation would have been paid to teachers on sabbatical while employed in the Canal Zone Government school system on September 30, 1979.[96] A sabbatical shall not result in a loss of, or reduction in, leave to which the teacher is otherwise entitled, credit for time or service, or performance or efficiency rating. The head of the department or agency may authorize in accordance with chapter 57 of title 5, United States Code, such travel expenses (including per diem allowance) as the head of the department or agency may determine to be essential for the study or experience.

(B) A sabbatical under this paragraph may not be granted to any teacher—

(i) more than once in any 10-year period;

(ii) unless the teacher has completed 7 years of service as a teacher; and

(iii) if the teacher is eligible for voluntary retirement with a right to an immediate annuity.

(C)(i) Any teacher in a department or agency of the United States may be granted a sabbatical under this paragraph only if the teacher agrees, as a condition of accepting the sabbatical, to serve in the civil service upon the completion of the sabbatical for a period of two consecutive years.

(ii) Each agreement required under clause (i) of this subparagraph shall provide that in the event the teacher fails to carry out the agreement (except for good and sufficient reason as determined

[96] Sec. 3550(d)(2)(C) of Public Law 105–85 (111 Stat. 2074) struck out "the day before the effective date of this Act" and inserted in lieu thereof "September 30, 1979".

by the head of the department or agency that granted the sabbatical), the teacher shall be liable to the United States for payment of all expenses (including salary) of the sabbatical. The amount shall be treated as a debt due the United States.

(d) Sections 5595(a)(2)(iii), 5724a(a) (3) and (4), and 8102(b) of title 5, United States Code, are each amended by striking out "Canal Zone" each place it appears and inserting in lieu thereof "areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979)".

PLACEMENT

SEC. 1232.[97] (a) Any citizen of the United States—

(1) who, on March 31, 1979, was an employee of the Panama Canal Company or the Canal Zone Government;

(2) who separates or is scheduled to separate on or after such date for any reason other than misconduct or delinquency; and

(3) who is not placed in another appropriate position in the Government of the United States in the Republic of Panama;

shall, upon the employee's request, be accorded appropriate assistance for placement in vacant positions in the Government of the United States in the United States.

(b) Any citizen of the United States—

(1) who, on March 31, 1979, was employed in the Canal Zone as an employee of an Executive agency (other than the Panama Canal Company or the Canal Zone Government) or the Smithsonian Institution;

(2) whose position is eliminated as the result of the implementation of any provision of the Panama Canal Treaty of 1977 and related agreements; and

(3) who is not appointed to another appropriate position in the Government of the United States in the Republic of Panama;

shall, upon the employee's request, be accorded appropriate assistance for placement in vacant positions in the Government of the United States in the United States.

(c) The Office of Personnel Management shall establish and administer a Government-wide placement program for all eligible employees who request appointment to positions under this section.

(d) The provisions of this section shall take effect on the date of the enactment of this Act.

TRANSITION SEPARATION INCENTIVE PAYMENTS

SEC. 1233.[98] (a) In applying to the Commission and employees of the Commission the provisions of section 663 of the Treasury, Postal Service, and General Government Appropriations Act, 1997 (as contained in section 101(f) of division A of Public Law 104–208; 110

[97] 22 U.S.C. 3672.
[98] 22 U.S.C. 3673. Sec. 3526 of Public Law 105–85 (111 Stat. 2067) added sec. 1233.

Stat. 3009–383), relating to voluntary separation incentives for employees of certain Federal agencies (in this section referred to as "section 663")—

(1) the term "employee" shall mean an employee of the Commission who has served in the Republic of Panama in a position with the Commission for a continuous period of at least three years immediately before the employee's separation under an appointment without time limitation and who is covered under the Civil Service Retirement System or the Federal Employees' Retirement System under subchapter III of chapter 83 or chapter 84, respectively, of title 5, United States Code, other than—

(A) an employee described in any of subparagraphs (A) through (F) of subsection (a)(2) of section 663; or

(B) an employee of the Commission who, during the 24-month period preceding the date of separation, has received a recruitment or relocation bonus under section 1217(c) of this Act or who, within the 12-month period preceding the date of separation, received a retention bonus under section 1217(d) of this Act;

(2) the strategic plan under subsection (b) of section 663 shall include (in lieu of the matter specified in subsection (b)(2) of that section)—

(A) the positions to be affected, identified by occupational category and grade level;

(B) the number and amounts of separation incentive payments to be offered; and

(C) a description of how such incentive payments will facilitate the successful transfer of the Panama Canal to the Republic of Panama;

(3) a separation incentive payment under section 663 may be paid to a Commission employee only to the extent necessary to facilitate the successful transfer of the Panama Canal by the United States of America to the Republic of Panama as required by the Panama Canal Treaty of 1977;

(4) such a payment—

(A) may be in an amount determined by the Commission not to exceed $25,000; and

(B) may be made (notwithstanding the limitation specified in subsection (c)(2)(D) of section 663) in the case of an eligible employee who voluntarily separates (whether by retirement or resignation) during the 90-day period beginning on the date of the enactment of this section or during the period beginning on October 1, 1998, and ending on December 31, 1998;

(5) in the case of not more than 15 employees who (as determined by the Commission) are unwilling to work for the Panama Canal Authority after the Canal Transfer Date and who occupy critical positions for which (as determined by the Commission) at least two years of experience is necessary to ensure that seasoned managers are in place on and after the Canal Transfer Date, such a payment (notwithstanding paragraph (4))—

(A) may be in an amount determined by the Commission not to exceed 50 percent of the basic pay of the employee; and

(B) may be made (notwithstanding the limitation specified in subsection (c)(2)(D) of section 663) in the case of such an employee who voluntarily separates (whether by retirement or resignation) during the 90-day period beginning on the date of the enactment of this section; and

(6) the provisions of subsection (f) of section 663 shall not apply.

(b) A decision by the Commission to exercise or to not exercise the authority to pay a transition separation incentive under this section shall not be subject to review under any statutory procedure or any agency or negotiated grievance procedure except under any of the laws referred to in section 2302(d) of title 5, United States Code.

## Subchapter IV—Retirement

### EARLY RETIREMENT ELIGIBILITY

SEC. 1241.[99] * * *

### EARLY RETIREMENT COMPUTATION

SEC. 1242.[100] * * *

### RETIREMENT UNDER SPECIAL TREATY PROVISIONS

SEC. 1243.[101] (a)(1) Subject to subsection (b) of this section, and under such regulations as the President may prescribe, the Secretary of the Treasury shall pay to the Social Security System of the Republic of Panama, out of funds deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund under section 8334(a)(2) of title 5, United States Code, such sums of money as may be necessary to aid in the purchase of a retirement equity in such System for each individual who—

(A) meets the requirements of paragraph (2) of this subsection;

(B) is separated from employment in the Panama Canal Company, the Canal Zone Government, or the Commission by reason of the implementation of any provision of the Panama Canal Treaty of 1977 and related agreements; and

(C) becomes employed in a position covered by the Social Security System of the Republic of Panama through the transfer of a function or activity to the Republic of Panama from the United States or through a job placement assistance program.

(2) This subsection applies with respect to any individual only if the individual—

[99] Sec. 1241 amended sec. 8336 of title 5, United States Code, to clarify eligibility requirements for early retirement of Panama Canal Company and Commission employees.

[100] Sec. 1242 amended sec. 8339(d) of title 5, United States Code, to clarify early retirement computation for Panama Canal Company and Commission employees.

[101] 22 U.S.C. 3681.

(A) has been credited with at least 5 years of civilian service under section 8332 of title 5, United States Code, relating to creditable service for purposes of civil service retirement;

(B) is not eligible for an immediate retirement annuity under chapter 83 of title 5, United States Code, relating to civil service retirement, and elects not to receive a deferred annuity under that chapter based on any portion of that service; and

(C) elects to withdraw from the Civil Service Retirement and Disability Fund the individual's entire lump-sum credit (as defined in section 8331(8) of title 5, United States Code) and to transfer that amount to the Social Security System of the Republic of Panama pursuant to the special regime referred to in paragraph 3 of Article VIII of the Agreement in implementation of Article III of the Panama Canal Treaty of 1977.

(b) The amount paid to the Social Security System of the Republic of Panama with respect to any individual under subsection (a) of this section shall not exceed the individual's entire lump-sum credit (as so defined).

(c)(1) Pursuant to paragraph 2(b) of Annex C to the Agreement in Implementation of Article IV of the Panama Canal Treaty of 1977, the President, or the President's designee, shall purchase from a source determined by the President to be appropriate, in accordance with such regulations as the President or the President's designee may prescribe and to such extent or in such amounts as may be provided in advance in appropriation Acts, a nontransferable deferred annuity for the benefit of each employee of an agency or instrumentality of the Government of the United States in the Republic of Panama—

(A) who is not a citizen of the United States;

(B) who was employed on October 1, 1979, and during any period before that date by an agency or instrumentality of the Government of the United States at any permanent duty station in the Republic of Panama (including, with respect to employment before that date, the area then known as the Canal Zone);

(C) who, for any period of service with such agency or instrumentality before October 1, 1979, at any such permanent duty station was not covered, by reason of that service, by the United States Civil Service Retirement System or any other Federal retirement system providing benefits similar to those retirement benefits provided by the Social Security System of the Republic of Panama; and

(D) who on October 1, 1979, is under a Federal retirement system and, on or before that date, has accrued in one or more agencies or instrumentalities of the United States a total of 5 years or more of service which—

(i) is creditable toward any Federal retirement system as in effect on October 1, 1979;

(ii) would have been creditable toward any such retirement system if the retirement system were in effect at the time of the service accrued by the employee; or

(iii) consists of any combination of service described in clauses (i) and (ii) of this subparagraph.

(2) The retirement annuity referred to in paragraph (1) of this subsection with respect to any employee will cover retroactively,[102] from October 1, 1979, all periods of service, described in subparagraph (D) of that paragraph, by that employee at any permanent duty station in the Republic of Panama (including the area known before that date as the Canal Zone) in agencies and instrumentalities of the Government of the United States during which that employee was not covered by the United States Civil Service Retirement System or any other Federal retirement system providing benefits similar to those retirement benefits provided by the Social Security System of the Republic of Panama.

OBLIGATION OF COMMISSION FOR UNFUNDED LIABILITY

SEC. 1244.[103] * * *

ADMINISTRATION OF CERTAIN DISABILITY BENEFITS

SEC. 1245.[104] (a)(1) The Commission, or any other United States Government agency or private entity acting pursuant to an agreement with the Commission, under the Act entitled "An Act authorizing cash relief for certain employees of the Panama Canal not coming within the provisions of the Canal Zone Retirement Act", approved July 8, 1937 (50 Stat. 478; 68 Stat. 17), may continue the payments of cash relief to those individual former employees of the Canal Zone Government or Panama Canal Company or their predecessor agencies not coming within the scope of the former Canal Zone Retirement Act whose services were terminated prior to October 5, 1958, because of unfitness for further useful service by reason of mental or physical disability resulting from age or disease.

(2) Subject to subsection (b), cash relief under this subsection may not exceed $1.50 per month for each year of service of the employees so furnished relief, with a maximum of $45 per month, plus the amount of any cost-of-living increases in such cash relief granted before October 1, 1979, pursuant to section 181 of title 2 of the Canal Zone Code (as in effect on September 30, 1979), nor be paid to any employee who, at the time of termination for disability prior to October 5, 1958, had less than 10 years' service with the Canal

[102] Sec. 3550(d)(6) of Public Law 105–85 (111 Stat. 2074) struck out "retroactivity" and inserted in lieu thereof "retroactively".

[103] Sec. 1244 amended sec. 8384 of title 5, United States Code.

[104] 22 U.S.C. 3682. Sec. 3538 of Public Law 104–201 (110 Stat. 2864) amended and restated the catchline and all of subsec. (a). Sec. 3548(c)(2) of that Act also amended the catchline to read "ADMINISTRATION OF CERTAIN DISABILITY BENEFITS". Subsec. (a) formerly read as follows:

"(a) The Commission, under the regulation prescribed by the President pursuant to the Act entitled 'An Act authorizing cash relief for certain employees of the Panama Canal not coming within the provisions of the Canal Zone Retirement Act', approved July 8, 1937, as amended (50 Stat. 478; 68 Stat. 17), may continue the payments of cash relief to those individual former employees of the Canal Zone Government or Panama Canal Company or their predecessor agencies not coming within the scope of the former Canal Zone Retirement Act whose services were terminated prior to October 5, 1958, because of unfitness for further useful service by reason of mental or physical disability resulting from age or disease. Subject to subsection (b) of this section, that cash relief may not exceed $1.50 per month for each year of service of the employees so furnished relief, with a maximum of $45 per month, plus the amount of any cost-of-living increases in such cash relief granted before October 1, 1979, pursuant to section 181 of title 2 of the Canal Zone Code (as in effect on September 30, 1979), nor be paid to any employee who, at the time of termination for disability prior to October 5, 1958, had less than 10 years' service with the Canal Zone Government, the Panama Canal Company, or their predecessor agencies on the Isthmus of Panama.".

Zone Government, the Panama Canal Company, or their predecessor agencies on the Isthmus of Panama.

(b) An additional amount of $20 per month shall be paid to each person who receives payment of cash relief under subsection (a) of this section and shall be allowed without regard to the limitations contained therein.

(c) Each cash relief payment made pursuant to this section shall be increased on the same effective date and by the same percent, adjusted to the nearest dollar, as civil service retirement annuities are increased under the cost-of-living adjustment provisions of section 8340(b) of title 5, United States Code. Such increase shall apply only to cash relief payments made after October 1, 1979, as increased by annuity increases made after that date under such section 8340(b).

(d) The Commission may pay cash relief to the widow of any former employee of the Canal Zone Government or the Panama Canal Company who, until the time of his death, receives or has received cash relief under subsection (a) of this section, under section 181 of title 2 of the Canal Zone Code (as in effect on September 30, 1979), or under the Act of July 8, 1937, referred to in such subsection (a). The term "widow" as used in this subsection includes only the following:

(1) a woman legally married to such employee at the time of his termination for disability and at his death;

(2) a woman who, although not legally married to such former employee at the time of his termination, had resided continuously with him for at least five years immediately preceding the employee's termination under such circumstances as would at common law make the relationship a valid marriage and who continued to reside with him until his death; and

(3) a woman who has not remarried or assumed a common-law relationship with any other person.

Cash relief granted to such a widow shall not at any time exceed 50 percent of the rate at which cash relief, inclusive of any additional payment under subsection (b) of this section, would be payable to the former employee were he then alive.

(e) Subchapter III of chapter 83 of title 5, United States Code, applies with respect to those individuals who were in the service of the Canal Zone Government or the Panama Canal Company on October 5, 1958, and who, except for the operation of section 13(a)(1) of the Act entitled "An Act to implement item 1 of a Memorandum of Understanding attached to the treaty of January 25, 1955, entered into by the Government of the United States of America and the Government of the Republic of Panama with respect to wage and employment practices of the Government of the United States of America in the Canal Zone", approved July 25, 1958 (72 Stat. 405), would have been within the classes of individuals subject to the Act of July 8, 1937, referred to in subsection (a) of this section.

SEC. 1246.[105] * * * [Repealed—1996]

## Subchapter V—Leave

SEC. 1251.[106] * * * [Repealed—1996]

## Subchapter VI—Application to Related Personnel

### LAW ENFORCEMENT; CANAL ZONE CIVILIAN PERSONNEL POLICY COORDINATION BOARD; RELATED EMPLOYEES

SEC. 1261.[107] (a) For the purposes of sections 1206, 1231, 1232, 1241, and 1242 of this Act, including any amendment made by those sections, the United States Attorney for the District of the Canal Zone and the Assistant United States Attorneys and their clerical assistants, and the United States Marshal for the District of the Canal Zone and his deputies and clerical assistants shall be considered employees of the Commission.

(b) For the purposes of this Act, including any amendment made by this Act, the Executive Director of the Canal Zone Civilian Personnel Policy Coordinating Board, the Manager, Central Examining Office, and their staffs shall be considered to have been employees of the Panama Canal Company with respect to service in those positions before October 1, 1979, and as employees of the Commission with respect to service in those positions on or after that date.

(c) The provisions of this section shall take effect on the date of the enactment of this Act.

## Subchapter VII—Labor-Management Relations

### LABOR-MANAGEMENT RELATIONS

SEC. 1271.[108] (a) Nothing in this Act shall be construed to affect the applicability of chapter 71 of title 5, United States Code, relating to labor-management and employee relations, with respect to the Commission or the operations of any other Executive agency conducted in that area of the Republic of Panama which, on September 30, 1979, was the Canal Zone, except that in applying those provisions—

(1) the definition of "employee" shall be applied without regard to clause (i) of section 7103(a)(2) of such title 5 which relates to nationality and citizenship;[109]

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[105] Formerly at 22 U.S.C. 3683. Sec. 3546(a)(6) of Public Law 104–201 (110 Stat. 2867) repealed sec. 1246, relating to appliances (such as artificial limbs) for employees injured before September 7, 1916.

[106] Sec. 3546(a)(7) of Public Law 104–201 (110 Stat. 2868) repealed sec. 1251. Sec. 1251 had related to leave for jury or witness service, amending sec. 6322(a) of title 5, United States Code.

[107] 22 U.S.C. 3691.

[108] 22 U.S.C. 3701.

[109] Sec. 3505(1) of the Panama Canal Commission Authorization Act for Fiscal Year 1994 (title XXXV of the National Defense Authorization Act for Fiscal Year 1994; Public Law 103–160; 107 Stat. 1966) struck out "and" at the end of para. (1). Sec. 3505(2) struck out "supervisors." at the end of para. (2), and inserted in lieu thereof "supervisors; and". Sec. 3505(3) added new para. (3).

Sec. 3506 of that Act further provided that paragraph (3) "shall take effect on the date of the enactment of this Act [November 30, 1993] and shall apply with respect to grievances arising on or after such date.".

(2) a unit shall be considered to be appropriate notwithstanding the fact that it includes any supervisor if that supervisor's position (or type of position) was, before October 1, 1979, represented before the Panama Canal Company by a labor organization that included employees who were not supervisors; and [109]

(3) [109] any negotiated grievance procedures under section 7121 of title 5, United States Code, including any provisions relating to binding arbitration, shall, with respect to any personnel action to which subchapter II of chapter 75 of such title applies (as determined under section 7512 of such title), be available to the same extent and in the same manner as if employees of the Panama Canal Commission were not excluded from such subchapter under section 7511(b)(8) of such title.

(b) Labor-management and employee relations of the Commission, other Executive agencies, and the Smithsonian Institution, their employees, and organizations of those employees, in connection with operations conducted in that area of the Republic of Panama which, on September 30, 1979, was the Canal Zone, shall be governed and regulated solely by the applicable laws, rules, and regulations of the United States.

(c) [110] (1) This subsection applies to any matter that becomes the subject of collective bargaining between the Commission and the exclusive representative for any bargaining unit of employees of the Commission during the period beginning on the date of the enactment of this subsection and ending on the Canal Transfer Date.

(2)(A) The resolution of impasses resulting from collective bargaining between the Commission and any such exclusive representative during that period shall be conducted in accordance with such procedures as may be mutually agreed upon between the Commission and the exclusive representative (without regard to any otherwise applicable provisions of chapter 71 of title 5, United States Code). Such mutually agreed upon procedures shall become effective upon transmittal by the Chairman of the Supervisory Board of the Commission to the Congress of notice of the agreement to use those procedures and a description of those procedures.

(B) The Federal Services Impasses Panel shall not have jurisdiction to resolve any impasse between the Commission and any such exclusive representative in negotiations over a procedure for resolving impasses.

(3) If the Commission and such an exclusive representative do not reach an agreement concerning a procedure for resolving impasses with respect to a bargaining unit and transmit notice of the agreement under paragraph (2) on or before July 1, 1998, the following shall be the procedure by which collective bargaining impasses between the Commission and the exclusive representative for that bargaining unit shall be resolved:

(A) If bargaining efforts do not result in an agreement, either party may timely request the Federal Mediation and Conciliation Service to assist in achieving an agreement.

[110] Sec. 3527 of Public Law 105–85 (111 Stat. 2068) added subsec. (c).

(B) If an agreement is not reached within 45 days after the date on which either party requests the assistance of the Federal Mediation and Conciliation Service in writing (or within such shorter period as may be mutually agreed upon by the parties), the parties shall be considered to be at an impasse and the Federal Mediation and Conciliation Service shall immediately notify the Federal Services Impasses Panel of the Federal Labor Relations Authority, which shall decide the impasse.

(C) If the Federal Services Impasses Panel fails to issue a decision within 90 days after the date on which notice under subparagraph (B) is received by the Panel (or within such shorter period as may be mutually agreed upon by the parties), the efforts of the Panel shall be terminated.

(D) In such a case, the Chairman of the Panel (or another member in the absence of the Chairman) shall immediately determine the matter by a drawing (conducted in such manner as the Chairman (or, in the absence of the Chairman, such other member) determines appropriate) between the last offer of the Commission and the last offer of the exclusive representative, with the offer chosen through such drawing becoming the binding resolution of the matter.

(4) In the case of a notice of agreement described in paragraph (2)(A) that is transmitted to the Congress as described in the second sentence of that paragraph after July 1, 1998, the impasse resolution procedures covered by that notice shall apply to any impasse between the Commission and the other party to the agreement that is unresolved on the date on which that notice is transmitted to the Congress.

## CHAPTER 3—FUNDS AND ACCOUNTS

### Subchapter I—Funds

SEC. 1301.[111] * * * [Repealed—1996]

#### PANAMA CANAL REVOLVING FUND

SEC. 1302.[112] (a) There is established in the Treasury of the United States a revolving fund to be known as 'Panama Canal Revolving Fund'. The Panama Canal Revolving Fund shall, subject to subsection (b), be available to the Commission to carry out the purposes, functions, and powers authorized by this Act, including for the following purposes:[113]

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[111] Formerly at 22 U.S.C. 3711. Sec. 3546(a)(8) of Public Law 104–201 (110 Stat. 2868) repealed sec. 1301, relating to Canal Zone Government funds.

[112] 22 U.S.C. 3712. Sec. 3539 of Public Law 104–201 (110 Stat. 2865) amended and restated sec. 1302.

Previously, sec. 5422 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203; 101 Stat. 1330–271) retitled sec. 1302 and inserted new text for subsecs. (a) through (e). Sec. 9 of Public Law 100–705 (102 Stat. 4687), sec. 3521(b)(1) of Public Law 102–484 (106 Stat. 2657), and sec. 3525 of Public Law 104–106 (110 Stat. 640) also amended sec. 1302 prior to its restatement.

[113] Sec. 3528(b)(1) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105–85; 111 Stat. 2068) struck out "for—" and inserted in lieu thereof "for the following purposes:". Para. (2) of that subsection amended paras. (1) through (9) by capitalizing the first letter of each word in each paragraph. Para. (3) of that subsection struck out a semicolon at the end of each of paras. (1) through (7), and inserted in lieu thereof a period. Para.

(1) The hire of passenger motor vehicles and aircraft.

(2) Uniforms or allowances therefor.

(3) Official receptions and representation expenses of the Board, the Secretary of the Commission, and the Administrator.

(4) The operation of guide services.

(5) A residence for the Administrator.

(6) Disbursements by the Administrator for employee and community projects.

(7) The procurement of expert and consultant services.

(8) Promotional activities, including the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, film, or other media presentation designed to promote the Panama Canal as a resource of the world shipping industry.

(9) The purchase and transportation to the Republic of Panama of passenger motor vehicles, including large, heavy-duty vehicles.

(10)[114] Payment to the Panama Canal Authority, not later than the Canal Transfer Date, of such amount as is computed by the Commission to be the future amount of severance pay to be paid by the Panama Canal Authority to employees whose employment with the Authority is terminated, to the extent that such severance pay is attributable to periods of service performed with the Commission before the Canal Transfer Date (and assuming for purposes of such computation that the Panama Canal Authority, in paying severance pay to terminated employees, will provide for crediting of periods of service with the Commission).

(b)(1) There shall be deposited in the Panama Canal Revolving Fund, on a continuing basis, toll receipts (other than amounts of toll receipts deposited into the Panama Canal Commission Dissolution Fund under section 1305) and all other receipts of the Commission. Except as provided in section 1303, no funds may be obligated or expended by the Commission in any fiscal year unless such obligation or expenditure has been specifically authorized by law.

(2) No funds may be authorized for the use of the Commission, or obligated or expended by the Commission in any fiscal year; in excess of—

(A) the amount of revenues deposited in the Panama Canal Revolving Fund and the Panama Canal Commission Dissolution Fund during such fiscal year; plus

(B) the amount of revenues deposited in the Panama Canal Revolving Fund before such fiscal year and remaining unobligated at the beginning of such fiscal year; plus

(C) the $100,000,000 borrowing authority provided for in section 1304 of this Act.

Not later than 30 days after the end of each fiscal year, the Secretary of the Treasury shall report to the Congress the amount of

(4) of that subsection struck out "; and" at the end of para. (8) and inserted in lieu thereof a period.

[114] Sec. 3528(a) of Public Law 105–85 (111 Stat. 2069) added para. (10).

revenues deposited in the Panama Canal Revolving Fund during such fiscal year.

(c) With the approval of the Secretary of the Treasury, the Commission may deposit amounts in the Panama Canal Revolving Fund in any Federal Reserve bank, any depositary for public funds, or such other place and in such manner as the Commission and the Secretary may agree.

(d)(1) It is the sense of the Congress that the additional costs resulting from the implementation of the Panama Canal Treaty of 1977 and related agreements should be kept to the absolute minimum level. To this end, the Congress declares appropriated costs of implementation to be borne by the taxpayers over the life of such Treaty should be kept to a level no greater than the March 1979 estimate of those costs ($870,700,000) presented to the Congress by the executive branch during consideration of this Act by the Congress, less personnel retirement costs of $205,000,000, which were subtracted and charged to tolls, therefore resulting in net taxpayer cost of approximately $665,700,000, plus appropriate adjustments for inflation.

(2) It is further the sense of the Congress that the actual costs of implementation be consistent with the obligations of the United States to operate the Panama Canal safely and efficiently and keep it secure.

(e)(1)[115] The Panama Canal Commission and the Office of Transition Administration (described in section 3504 of Public Law 106–65) shall terminate on October 1, 2004.

(2) Upon termination pursuant to paragraph (1), the Panama Canal Revolving Fund shall be transferred to the General Services Administration (GSA). GSA shall use the amounts in the Fund to make payments of any outstanding liabilities of the Commission, as well as any expenses associated with the termination of the Office of Transition Administration and the Commission. The fund shall be the exclusive source available for payment of any outstanding liabilities of the Commission.

EMERGENCY AUTHORITY

SEC. 1303.[116] If authorizing legislation described in section 1302(b)(1)[117] has not been enacted for a fiscal year, then the Commission may withdraw funds from the Panama Canal Revolving Fund in order to defray emergency expenses and to ensure the continuous, efficient, and safe operation of the Panama Canal, including expenses for capital projects.[118] The authority of this section may be exercised only until authorizing legislation described in section 1302(b)(1)[117] is enacted, or for a period of 24 months after the end of the fiscal year for which such authorizing legislation was last enacted, whichever occurs first. Within 60 days after the end of any calendar quarter in which expenditures are made under this

[115] Sec. 121 of Public Law 108–309 (118 Stat. 1140) added subsec. (e).

[116] 22 U.S.C. 3713. Sec. 5423 of Public Law 100–203 (101 Stat. 1330–273) amended the title and substantially restated sec. 1303. Earlier text authorized the Secretary of the Treasury to establish and maintain a Panama Canal Emergency Fund.

[117] Sec. 3548(b)(2) of Public Law 104–201 (110 Stat. 2869) struck out "section 1302(c)(1)" and inserted in lieu thereof "section 1302(b)(1)".

[118] Sec. 3529(2) of Public Law 104–106 (110 Stat. 642) struck out "The authority of this section may not be used for administrative expenses." at this point.

section, the Commission shall report such expenditures to the appropriate committees of the Congress.

BORROWING AUTHORITY

SEC. 1304.[119] (a) The Panama Canal Commission may borrow from Treasury, for any of the purposes of the commission, not more than $100,000,000 outstanding at any time. For this purpose, the Commission may issue to the Secretary of the Treasury its notes or other obligations—

(1) which shall have maturities (of not later than December 31, 1999) agreed upon by the Commission and the Secretary of the Treasury, and

(2) which may be redeemable at the option of the Commission before maturity.

(b) Amounts borrowed under this section shall not be available for payments to Panama under Article XIII of the Panama Canal Treaty of 1977.

(c) Amounts borrowed under this section shall increase the investment of the United States in the Panama Canal, and repayment of such amount shall decrease such investment.

(d) The Commission shall report to the Congress and to the Office of Management and Budget on each exercise of borrowing authority under this section.

DISSOLUTION OF COMMISSION

SEC. 1305.[120] (a)(1) The Commission shall conduct a study of—

(A) the costs associated with the dissolution of the Commission, including the composition, location, and costs of the office authorized to be established under subsection (b); and

(B) costs and liabilities incurred or administered by the Commission that will not be paid before the date of that dissolution.

(2) The Commission shall submit to the Congress, by not later than September 30, 1996, a report on the findings and conclusions of the study under this subsection. The report shall include an estimate of the period of time which may be required to close out the affairs of the Commission after the termination of the Panama Canal Treaty of 1977.

(b) The Commission shall during fiscal year 1998 establish an office to close out the affairs of the Commission that are still pending after the termination of the Panama Canal Treaty of 1977.

(c)(1) There is established in the Treasury of the United States a fund to be known as the "Panama Canal Commission Dissolution Fund" (hereinafter in this section referred to as the "Fund"). The Fund shall be managed by the Commission until the termination of the Panama Canal Treaty of 1977 and by the office established under subsection (b) thereafter.

(2)(A) Subject to paragraph (5), the Fund shall be available after September 30, 1998, to pay—

[119] 22 U.S.C. 3714. Sec. 5424(a) of Public Law 100–203 (101 Stat. 1330–273) added sec. 1304.

[120] 22 U.S.C. 3714a. Sec. 3521(a) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2656) added this section.

(i) the costs of operating the office established under subsection (b); and

(ii) the costs and liabilities associated with dissolution of the Commission, including such costs incurred or identified after the termination of the Panama Canal Treaty of 1977.

(B) Payments from the Fund made during the period beginning on October 1, 1998, and ending with the termination of the Panama Canal Treaty of 1977 shall be subject to the approval of the Board provided for in section 1102.

(3) The Fund shall consist of—

(A) such amounts as may be deposited into the Fund by the Commission, from amounts collected as toll receipts, to pay the costs described in paragraph (2); and

(B) amounts credited to the Fund under paragraph (4).

(4)(A) The Secretary of the Treasury shall invest excess amounts in the Fund in public debt securities with maturities suitable to the needs of the Fund, as determined by the manager of the Fund.

(B) Securities invested under subparagraph (A) shall bear interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

(C) Interest earned on securities invested under subparagraph (A) shall be credited to and form part of the Fund.

(5)(A)[121] Amounts in the Fund may not be obligated or expended in any fiscal year unless the obligation or expenditure is specifically authorized by law.

(B)[121] The office established by subsection (b) is authorized to expend or obligate funds from the Fund for the purposes enumerated in clauses (i) and (ii) of paragraph (2)(A) until October 1, 2004.

(6) The Fund shall terminate on October 1, 2004. Amounts in the Fund on that date shall be deposited in the general fund of the Treasury of the United States.

PRINTING

SEC. 1306.[122] (a) Sections 501 through 517 and 1101 through 1123[123] of title 44, United States Code, shall not apply to direct purchase by the Commission for its use of printing, binding, and blank-book work in the Republic of Panama when the Commission determines that such direct purchase is in the best interest of the Government.

(b) This section shall not affect the Commission's authority, under chapter 5 of title 44, United States Code, to operate a field printing plant.

[121] Sec. 3504 of the Panama Canal Commission Authorization Act for Fiscal Year 2000 (title XXXV of Public Law 106–65; 113 Stat. 975) added subparagraph designation "(A)" and added subpara. (B).

[122] 22 U.S.C. 3714b. Sec. 3540 of Public Law 104–201 (110 Stat. 2866) added sec. 1306.

[123] Sec. 3549 of Public Law 105–85 (111 Stat. 2073) struck out "Section 501" and inserted in lieu thereof "Sections 501 through 517 and 1101 through 1123".

## Subchapter II—Accounting Policies and Audits

### ACCOUNTING POLICIES

SEC. 1311.[124] (a) The Commission shall establish and maintain its accounts pursuant to chapter 91 of title 31, United States Code,[125] and the provisions of this chapter. Such accounts shall specify all revenues received by the Commission, including tolls for the use of the Panama Canal, expenditures for capital replacement, expansion, and improvement, and all costs of maintenance and operation of the Panama Canal and of its complementary works, installations, and equipment, including depreciation, payments to the Republic of Panama under the Panama Canal Treaty of 1977, and interest on the investment of the United States calculated in accordance with section 1603 of this Act.

(b) The Commission may issue regulations establishing the basis of accounting for the assets which are made available for the use of the Commission. Such regulations may provide for depreciation of the net replacement value of the assets which will ultimately require replacement to maintain the service capacity of the Panama Canal. Such regulations may also provide the depreciation of such assets be recorded ratably over their service lives.

SEC. 1312.[126] * * * [Repealed—1995]

### AUDITS [127]

SEC. 1313. (a) Notwithstanding any other provision of law, and subject to subsection (c),[128] financial transactions [129] of the Commission shall be audited by the Comptroller General of the United States (hereinafter in this Act referred to as the "Comptroller General").[130] In conducting such audit,[131] the appropriate representatives of the Comptroller General shall have access to all books, accounts, financial records, reports, files, and other papers, items, or property in use by the Commission and necessary to facilitate such audit, and such representative shall be afforded full facilities for

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[124] 22 U.S.C. 3721.

[125] Sec. 3541(a) of Public Law 104–201 (110 Stat. 2866) struck out "the Accounting and Auditing Act of 1950 (31 U.S.C. 65 et seq.)" and inserted in lieu thereof "chapter 91 of title 31, United States Code,".

[126] Formerly at 22 U.S.C. 3722. Sec. 2201(a) of Public Law 104–66 (109 Stat. 707) repealed this section. Sec. 1312 required the Commission to report annually to the President and to the Congress on finances, maintenance, and operation of the Panama Canal during the preceding fiscal year.

[127] 22 U.S.C. 3723. Sec. 3526(a)(1) of Public Law 104–106 (110 Stat. 640) amended the section heading of sec. 1313, which formerly read "AUDITS BY THE COMPTROLLER GENERAL OF THE UNITED STATES".

[128] Sec. 3512(a)(3) of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105–261; 112 Stat. 2271) struck out "subsection (d)" and inserted in lieu thereof "subsection (c)".

[129] Sec. 3526(a)(2)(A) of Public Law 104–106 (110 Stat. 640) struck out "Financial transactions" and inserted in lieu thereof "Notwithstanding any other provision of law, and subject to subsection (d), financial transactions".

[130] Sec. 3526(a)(2)(B) of Public Law 104–106 (110 Stat. 640) struck out "pursuant to the Accounting and Auditing Act of 1950 (31 U.S.C. 65 et seq.)". Sec. 3541(b) of Public Law 104–201 (110 Stat. 2867) made a similar amendment, striking out "the Accounting and Auditing Act of 1950 (31 U.S.C. 65 et seq.)" in subsecs. (a) and (c) and inserting in lieu thereof "chapter 91 of title 31, United States Code,". This second amendment has not been executed here.

[131] Sec. 3526(a)(2)(C) of Public Law 104–106 (110 Stat. 640) struck out "any audit pursuant to such Act" and inserted in lieu thereof "such audit".

verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. Any such audit[132] shall first be conducted with respect to the fiscal year in which this Act becomes effective. An audit performed under this section is subject to the requirements of paragraphs (2), (3), and (5) of section 9105(a) of title 31, United States Code.[133]

(b) Subject to subsection (c),[128] the Comptroller General[134] shall, not later than six months after the end of each fiscal year, submit to the Congress a report of the audit conducted pursuant to subsection (a) of this section with respect to such fiscal year. Such report shall set forth the scope of the audit and shall include—

(1) a statement of assets and liabilities, capital, and surplus or deficit, based on the accounts of the Commission established pursuant to this chapter.

(2) a statement of income and expenses,

(3) a statement of sources and application of funds,

(4) a statement listing all direct and indirect costs incurred by the United States in implementing the Panama Canal Treaty of 1977, including the cost of property transferred to the Republic of Panama during each fiscal year, and

(5) such comments and information as the Comptroller General considers necessary to keep the Congress informed of the operations and financial transactions of the Commission, together with such recommendations with respect to such operations and transactions as the Comptroller General considers advisable.

The report shall identify specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit which, in the opinion of the Comptroller General, has been carried out or made and has not been authorized by law. The Comptroller General shall submit a copy of each such report to the President, the Secretary of the Treasury, and the Commission.

(c)[135] At the discretion of the Board provided for in section 1102, the Commission may hire independent auditors to perform, in lieu of the Comptroller General, the audit and reporting functions prescribed in subsections (a) and (b).

(d)[135] In addition to auditing the financial statements of the Commission, the Comptroller General (or the independent auditor if one is employed pursuant to subsection (c))[134] shall, in accordance with standards for an examination of a financial forecast established by the American Institute of Certified Public Accountants, examine and report on the Commission's financial forecast that it will be in a position to meet its financial liabilities on December 31, 1999.

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[132] Sec. 3526(a)(2)(D) of Public Law 104–106 (110 Stat. 640) struck out "An audit pursuant to such Act" and inserted in lieu thereof "Any such audit".

[133] Sec. 3526(a)(2)(E) of Public Law 104–106 (110 Stat. 640) added this last sentence.

[134] Sec. 3526(a)(3) of Public Law 104–106 (110 Stat. 641) struck out "The Comptroller General" and inserted in lieu thereof "Subject to subsection (d), the Comptroller General". Subsequently, sec. 3512(a)(3) of Public Law 105–261 (112 Stat. 2271) struck out "subsection (d)" and inserted in lieu thereof "subsection (c)".

[135] Sec. 3526(a)(4) of Public Law 104–106 (110 Stat. 641) added these subsections as subsecs. (d) and (e). Sec. 3546(a)(9) of Public Law 104–201 (110 Stat. 2868) subsequently repealed subsec. (c), and sec. 3546(b) of that Act redesignated subsecs. (d) and (e) as subsecs. (c) and (d).

## Subchapter III—Interagency Accounts

### INTERAGENCY SERVICES; REIMBURSEMENTS

SEC. 1321.[136] (a) The Commission shall reimburse the Employees' Compensation Fund, Bureau of Employee's Compensation, Department of Labor, for the benefit payments to the Commission's employees, and shall also reimburse other Government departments and agencies for payments of a similar nature made on its behalf.

(b) The Department of Defense shall reimburse the Commission for amounts expended by the Commission in maintaining defense facilities in standby condition for the Department of Defense.

(c) Notwithstanding any other provision of law, funds appropriated (for any fiscal year beginning after September 30, 1979) to or for the use of the Department of Defense, or to any other department or agency of the United States as may be designated by the President to carry out the purposes of this subsection, shall be available for—

(1) conducting the educational and health care activities, including kindergartens and college, carried out by the Canal Zone Government and the Panama Canal Company before October 1, 1979,[137] and

(2) providing the services related thereto to the categories of persons to which such services were provided before October 1, 1979.[138]

Notwithstanding any other provision of law, the Department of Defense, or any department or agency designated by the President to provide health care services to those categories of persons referred to in this subsection, shall provide such services to such categories of persons on a basis no less favorable than that applied to its own employees and their dependents.

(d) Amounts expended for furnishing services referred to in subsection (c) of this section to persons eligible to receive them, less amounts payable by such persons, shall be fully reimbursable to the department or agency furnishing the services, except to the extent that such expenditures are the responsibility of that department or agency. The[139] funds of the Commission shall be available for such reimbursements on behalf of—

(1) employees of the Commission, and

(2) other persons authorized to receive such services who are eligible to receive them pursuant to the Panama Canal Treaty of 1977 and related agreements.

The appropriations or funds of any other department or agency of the United States conducting operations in the Republic of Panama, including the Smithsonian Institution, shall be available for reimbursements on behalf of employees of such department or agency and their dependents.

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[136] 22 U.S.C. 3731.

[137] Sec. 3550(d)(2)(A) of Public Law 105–85 (111 Stat. 2074) struck out "the effective date of this Act" and inserted in lieu thereof "October 1, 1979".

[138] Sec. 3550(d)(2)(B) of Public Law 105–85 (111 Stat. 2074) struck out "such effective date" and inserted in lieu thereof "October 1, 1979".

[139] Sec. 3529(3) of Public Law 104–106 (110 Stat. 642) struck out "appropriations or".

(e)[140] * * * [Repealed—1999]

(f) For purposes of the reimbursement of the United States by the Republic of Panama for the salaries and other employment costs of employees of the Commission who are assigned to assist the Republic of Panama in the operation of activities which are transferred to that Government as a result of any provision of the Panama Canal Treaty of 1977 and related agreements which reimbursement is provided for in paragraph 8 of Article 10 of that Treaty, the Commission shall be deemed to be the United States of America.

(g) Notwithstanding any other provision of law, the President, through the appropriate department or agency of the United States, shall, until January 1, 2000, operate the educational institution known as the "Canal Zone College". Such institution shall continue to provide, insofar as practicable, the level of services which it offered immediately before the effective date of this Act.

(h)[141] Except as expressly provided in this Act, funds available to the Panama Canal Commission may not be made available to any other agency as that term is defined in section 551 of title 5, United States Code, nor may funds be authorized or appropriated for any function other than Panama Canal Commission activities.

## Subchapter IV—Postal Matters

### POSTAL SERVICE

SEC. 1331.[142] (a) The Commission shall take possession of and administer the funds of the Canal Zone postal service and shall assume its obligations.

(b) Effective December 1, 1999, neither the Commission nor the United States Government shall be responsible for the distribution of any accumulated unpaid balances relating to Canal Zone postal-savings deposits, postal-savings certificates, and postal money orders.

(c) Mail addressed to the Canal Zone from or through the continental United States may be routed by the United States Postal Service to the military post offices of the United States Armed Forces in the Republic of Panama. Such military post offices shall provide the required directory services and shall accept such mail to the extent permitted under the Panama Canal Treaty of 1977 and related agreements. The Commission shall furnish personnel, records, and other services to such military post offices to assure wherever appropriate the distribution, rerouting, or return of such mail.

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[140] Sec. 3507 of Public Law 105–261 (112 Stat. 2269) repealed subsec. (e), relating to the defraying of health care and education costs, effective 11:59 p.m. (Eastern Standard Time), December 30, 1999. Previously, sec. 5(c) of Public Law 99–223 (99 Stat. 1739) amended and restated subsec. (e).

[141] Sec. 8 of Public Law 100–705 (102 Stat. 4686) added subsec. (h).

[142] 22 U.S.C. 3741. Sec. 3543 of Public Law 104–201 (110 Stat. 2867) amended and restated sec. 1331.

## Subchapter V—Accounts With the Republic of Panama

### PAYMENTS TO THE REPUBLIC OF PANAMA

SEC. 1341.[143] (a) The Commission shall pay to the Republic of Panama those payments required under paragraph 5 of Article III and paragraph 4 of Article XIII of the Panama Canal Treaty of 1977. Payments made under paragraph 5 of Article III of such Treaty shall be audited annually by the Comptroller General and any overpayment, as determined in accordance with Understanding (1) incorporated in the Resolution of Ratification of the Panama Canal Treaty (adopted by the United States Senate on April 18, 1978), for the service described in that paragraph which are provided shall be refunded by the Republic of Panama or set off against amounts payable by the United States to the Republic of Panama under paragraph 5 of Article III of the Panama Canal Treaty of 1977.

(b) In determining whether operating revenues exceed expenditures for the purpose of payments to the Republic of Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977, such operating revenues in a fiscal period shall be reduced by (1) all costs of such period as shown by the accounts established pursuant to section 1311 of this Act, and (2) the cumulative sum from prior years (beginning with the year in which the Panama Canal Treaty of 1977 enters into force) of any excess of costs of the Panama Canal Commission over operating revenues.

(c) The President shall not accede to any interpretation of paragraph 1 of Article IX of the Panama Canal Treaty of 1977 which would permit the Republic of Panama to tax retroactively organizations and businesses operating, and citizens of the United States living, in the Canal Zone before the effective date of this Act.

(d) Any accumulated unpaid balance under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977 at the termination of such Treaty shall be payable only to the extent of any operating surplus in the last year of the Treaty's duration, and nothing in such paragraph may be construed as obligating the United States to pay after the date of the termination of the Treaty any such unpaid balance which has accrued before such date.

(e) As provided in section 1602(b) of this Act, tolls shall not be prescribed at rates calculated to cover payments to the Republic of Panama pursuant to paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977. Moreover, no payments may be made to the Republic of Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977 unless unexpended funds are used to pay all costs of operation and maintenance of the canal, including but not limited to (1) operating expenses determined in accordance with generally accepted accounting principles, (2) payments to the Republic of Panama under paragraphs 4(a) and 4(b) of such Article XIII and under paragraph (5) of Article III of such Treaty, (3) amounts in excess of depreciation and amortization which are programmed for plant replacement, expansion, and improvements, (4) payments to the Treasury of the United States under section 1603 of this Act, (5) reimbursement to the Treasury of the United States

[143] 22 U.S.C. 3751.

for costs incurred by other departments and agencies of the United States in providing educational, health, and other services to the Commission, its employees and their dependents, and other categories of persons in accordance with section 1321 of this Act, (6) any costs of Treaty implementation associated with the maintenance and operation of the Panama Canal, and (7) amounts programmed to meet working capital requirements.[144]

(f) The prohibitions contained in this section and in sections 1302(b)[145] and 1503 of this Act shall apply notwithstanding any other provisions of law authorizing transfers of funds between accounts, reprogramming of funds, use of funds for contingency purposes, or waivers of prohibitions.

(g)[146] Notwithstanding any other provision of law, no reduction under any order issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 shall apply to the Commission if the implementation of such an order would result in a payment to the Republic of Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977 and this section.

TRANSACTIONS WITH THE REPUBLIC OF PANAMA

SEC. 1342.[147] (a)[148] The Commission may, on a reimbursable basis, provide to the Republic of Panama materials, supplies, equipment, work, or services, including water and electric power, requested by the Republic of Panama, at such rates as may be agreed upon by the Commission and the Republic of Panama. Payment for such materials, supplies, equipment, work, or services may be made by direct payment by the Republic of Panama to the Commission or by offset against amounts due the Republic of Panama by the United States.

(b)[148] The Commission may provide office space, equipment, supplies, personnel, and other in-kind services to the Panama Canal Authority on a nonreimbursable basis.

(c)[148] Any executive department or agency of the United States may, on a reimbursable basis, provide to the Panama Canal Authority materials, supplies, equipment, work, or services requested by the Panama Canal Authority, at such rates as may be agreed upon by that department or agency and the Panama Canal Authority.

DISASTER RELIEF

SEC. 1343.[149] If an emergency arises because of disaster or calamity by flood, hurricane, earthquake, fire, pestilence, or like cause, not foreseen or otherwise provided for, and occurring in the Republic of Panama in such circumstances as to constitute an actual or potential hazard to health, safety, security, or property in

[144] Sec. 5426 of Public Law 100–203 (101 Stat. 1330–274) added clause (7).

[145] Sec. 3548(b)(3) of Public Law 104–201 (110 Stat. 2869), as amended by sec. 3512(b) of Public Law 105–261 (112 Stat. 2271), struck out "sections 1302(c)" and inserted in lieu thereof "sections 1302(b)". Subsequently, sec. 3550(d)(7) of Public Law 105–85 (111 Stat. 2074) made the same amendment.

[146] Sec. 6 of Public Law 99–368 (100 Stat. 776) added subsec. (g).

[147] 22 U.S.C. 3752.

[148] Sec. 3542 of Public Law 105–85 (111 Stat. 2072) added subsection designation "(a)", and added new subsecs. (b) and (c).

[149] 22 U.S.C. 3753.

the areas and installations made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, the Commission may expend funds available [150] to the Commission for such purpose, and utilize or furnish materials, supplies, equipment and services for relief, assistance, and protection.

CONGRESSIONAL RESTRAINTS ON PROPERTY TRANSFER AND TAX EXPENDITURES

SEC. 1344.[151] (a) The Congress enacts this section in the exercise of its authority under Article IV, section 3, clause 2 of the Constitution of the United States to dispose of and make necessary rules and regulations with respect to property of the United States.

(b) Prior to the transfer of property of the United States located in the Republic of Panama to the Republic of Panama pursuant to section 1504 of this Act, the President shall formally advise the Government of Panama that—

(1) in fulfilling its obligations under the Panama Canal Treaty of 1977, the United States shall make no payments to the Republic of Panama derived from tax revenues of the United States;

(2) the United States retains full discretion and authority to determine whether and the extent to which tax revenues of the United States may be expended in exercising United States rights and carrying out United States responsibilities under the Panama Canal Treaty of 1977 and related agreements;

(3) no tax revenues of the United States shall be made available for obligations and expenditures after the effective date of this Act for purposes of implementing the Panama Canal Treaty of 1977 and related agreements, unless hereafter specifically approved by the Congress through the authorization and appropriation process;

(4) the total amount expended by the Commission from funds available [152] to or for the use of the Commission shall not exceed the total amount deposited in the Panama Canal Revolving Fund; [152] and

(5) the foregoing paragraphs of this subsection do not apply to expenditures made by the United States in fulfilling United States obligations to transfer the remains of our honored dead from Mount Hope Cemetery in the former Canal Zone to an appropriate and dignified place in accordance with Reservation 3 to the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal.

[150] Sec. 5428(b) of Public Law 100–203 (101 Stat. 1330–274) struck out "available funds appropriated" and inserted in lieu thereof "funds available".

[151] 22 U.S.C. 3754.

[152] Sec. 5428(c) of Public Law 100–203 (101 Stat. 1330–274) struck out "appropriated" and "Commission Fund" and inserted in lieu thereof "available" and "Revolving Fund", respectively.

## CHAPTER 4—CLAIMS FOR INJURIES TO PERSONS OR PROPERTY

### Subchapter I—General Provisions

#### SETTLEMENT OF CLAIMS GENERALLY

SEC. 1401.[153] (a) Subject to the provisions of this chapter, the Commission may adjust and pay claims for injury to, or loss of, property or for personal injury or death, arising from the operation of the Panama Canal or related facilities and appurtenances.

(b)[154] The Commission may pay not more than $50,000 on any claim described in subsection (a).

(c) An award made to a claimant under this section shall be payable out of any moneys[155] made available to the Commission. The acceptance by the claimant of the award shall be final and conclusive on the claimant, and shall constitute a complete release by the claimant of his claim against the United States and against any employee of the United States acting in the course of his employment who is involved in the matter giving rise to the claim.

(d) Except as provided in section 1416 of this Act, no action for damages on claims cognizable under this chapter shall be against the United States or the Commission, and no such action shall lie against any officer or employee of the United States. Neither this section nor section 1416 of this Act shall preclude actions against officers or employees of the United States for injuries resulting from their acts outside the scope of their employment or not in the line of their duties, or from their acts committed with the intent to injure the person or property of another.

(e) The provisions of section 1346(b) of title 28, United States Code, and the provisions of chapter 171 of such title shall not apply to claims cognizable under this chapter.

### Subchapter II—Vessel Damage

#### INJURIES IN LOCKS OF CANAL

SEC. 1411.[156] (a) Subject to section 1419(b) of this Act and[157] to subsection (b) of this section, the[158] Commission shall promptly adjust and pay damages for injuries to vessels, or to the cargo, crew, or passengers of vessels, which may arise by reason of their passage through the locks of the Panama Canal when the injury was proximately caused by negligence or fault on the part of an officer

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[153] 22 U.S.C. 3761.

[154] Sec. 5417(a) of title V of the Omnibus Reconciliation Act of 1987 (Public Law 100–203; 101 Stat. 1330–271) amended and restated subsec. (b).

[155] Sec. 3529(4) of Public Law 104–106 (110 Stat. 642) struck out "appropriated for or" at this point.

[156] 22 U.S.C. 3771.

[157] Sec. 3509(a)(1) of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105–261; 112 Stat. 2270) inserted "to section 1419(b) of this Act and" after "Subject".

[158] Sec. 2(a)(1)(A) of Public Law 99–209 (99 Stat. 1716) struck out "The" and inserted in lieu thereof "Subject to subsection (b) of this section, the". Sec. 2(a)(1)(B) struck out "under the control of officers or employees of the United States" and inserted in lieu thereof the language in this first sentence beginning with "when the injury was proximately caused" and ending with "the operation of the Canal". Sec. 2(a)(2) deleted the second sentence previously appearing at this point which had read: "Damages may not be paid where the injury was proximately caused by the negligence or fault of the vessel, master, crew, or passengers.".

or employee of the United States acting within the scope of his employment and in the line of his duties in connection with the operation of the Canal.[158] If the negligence or fault of the vessel, master, crew, or passengers proximately contributed to the injury, the award of damages shall be diminished in proportion to the negligence to fault attributable to the vessel, master, crew, or passengers. Damages may not be allowed and paid for injuries to any protrusion beyond any portion of the hull of a vessel, whether it is permanent or temporary in character. A vessel is considered to be passing through the locks of the Canal, under the control of officers or employees of the United States, from the time the first towing line is made fast on board before entrance into the locks and until the towing lines are cast off upon, or immediately prior to, departure from the lock chamber. No payment for damages on a claim may be made under this section unless the claim is filed with the commission within one year after the date of the injury or November 18, 1998, whichever is later.[159]

(b)[160] (1) With respect to a claim under subsection (a) for damages for injuries to a vessel or its cargo, if, at the time the injuries were incurred, the navigation or movement of the vessel was not under the control of a Panama Canal pilot, the Commission may pay not more than $50,000 on the claim,[161] unless the injuries were caused by another vessel under the control of a Panama Canal pilot.

(2) The provisions of subsections (c) through (e) of section 1401 of this Act shall apply to any claim described in paragraph (1).

INJURIES OUTSIDE LOCKS

SEC. 1412.[162] Subject to section 1419(b) of this Act, the Commission[163] shall promptly adjust and pay damages for injuries to vessels, or to the cargo, crew, or passengers of vessels which may arise by reason of their presence in the Panama Canal, or waters adjacent thereto, other than the locks, when the injury was proximately caused by negligence or fault on the part of an officer or employee of the United States acting within the scope of his employment and in the line of his duties in connection with the operation of the Canal.[164] No payment for damages on a claim may be made under this section unless the claim is filed with the Commission within

[159] Sec. 2(a)(3) of Public Law 99–209 (99 Stat. 1716) added this sentence. Sec. 3543(a) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105–85; 111 Stat. 2072) struck out "within 2 years after the date of the injury, or within 1 year after the date of the enactment of the Panama Canal Amendments Act of 1985," and inserted in lieu thereof "within one year after the date of the injury or the date of the enactment of the Panama Canal Transition Facilitation Act of 1997,". Sec. 3512(a)(4) of Public Law 105–261 (112 Stat. 2271) struck out "the date of the enactment of the Panama Canal Transition Facilitation Act of 1997" and inserted in lieu thereof "November 18, 1998".

[160] Sec. 2(b) of Public Law 99–209 (99 Stat. 1716) added subsec. (b).

[161] Sec. 5417(b) of Public Law 100–203 (101 Stat. 1330–271) struck out "adjust and pay the claim only if the amount of the claim does not exceed $50,000" and inserted in lieu thereof "pay not more than $50,000 on the claim".

[162] 22 U.S.C. 3772.

[163] Sec. 3509(a)(2) of Public Law 105–261 (112 Stat. 2270) struck out "The Commission" and inserted in lieu thereof "Subject to section 1419(b) of this Act, the Commission".

[164] Sec. 2(c)(1) of Public Law 99–209 (99 Stat. 1716) struck out ", and when the amount of the claim does not exceed $120,000" at this point.

one year after the date of the injury or November 18, 1998, whichever is later.[165] If the negligence or fault of the vessel, master, crew, or passengers proximately contributed to the injury, the award of damages shall be diminished in proportion to the negligence or fault attributable to the vessel, master, crew, or passengers. In the case of a vessel which is required by or pursuant to regulations prescribed pursuant to section 1801 of this Act to have a Panama Canal pilot on duty aboard, damages may not be adjusted and paid for injuries to the vessel, or its cargo, crew, or passengers, incurred while the vessel was underway and in motion, unless at the time the injuries were incurred the navigation or movement of the vessel was under the control of a Panama Canal pilot.

MEASURE OF DAMAGES GENERALLY

SEC. 1413.[166] In determining the amount of the award of damages for injuries to a vessel for which the Commission is determined to be liable there may be included—

(1) the actual or estimated cost of repairs;

(2) charter hire actually lost by the owners, or charter hire actually paid, depending upon the terms of the charter party, for the time the vessel is undergoing repairs;

(3) maintenance of the vessel and wages of the crew, if they are found to be actual additional expenses or losses incurred outside of the charter hire; and

(4) other expenses which are definitely and accurately shown to have been incurred necessarily and by reason of the accident or injuries.

Agent's fees, or commissions, or other incidental expenses of similar character, or any items which are indefinite, indeterminable, speculative, or conjectural may not be allowed. The Commission shall be furnished such vouchers, receipts, or other evidence as may be necessary in support of any item of a claim. If a vessel is not operated under charter but by the owner directly, evidence shall be secured if available as to the sum for which vessels of the same size and class can be chartered in the market. If the charter value cannot be determined, the value of the vessel to its owners in the business in which it was engaged at the time of the injuries shall be used as a basis for estimating the damages for the vessel's detention; and the books of the owners showing the vessel's earnings about the time of the accident or injuries shall be considered as evidence of probable earnings during the time of detention. If the books are unavailable, such other evidence shall be furnished as may be necessary.

[165] Sec. 2(c)(2) of Public Law 99–209 (99 Stat. 1716) added this sentence. Sec. 3543(a) of Public Law 105–85 (111 Stat. 2072) struck out "within 2 years after the date of the injury, or within 1 year after the date of the enactment of the Panama Canal Amendments Act of 1985," and inserted in lieu thereof "within one year after the date of the injury or the date of the enactment of the Panama Canal Transition Facilitation Act of 1997,". Sec. 3512(a)(4) of Public Law 105–261 (112 Stat. 2271) struck out "the date of the enactment of the Panama Canal Transition Facilitation Act of 1997" and inserted in lieu thereof "November 18, 1998".

[166] 22 U.S.C. 3773.

DELAYS FOR WHICH NO RESPONSIBILITY IS ASSUMED

SEC. 1414.[167] The Commission is not responsible, and may not consider any claim, for demurrage or delays caused by—

(1) landslides or other natural causes;

(2) necessary construction or maintenance work of Canal locks, terminals, or equipment;

(3) obstruction arising from accidents;

(4) time necessary for admeasurement;

(5) congestion of traffic;

(6)[168] investigation of a marine accident that is conducted within 24 hours after the accident occurs, except that any liability of the Commission beyond that 24-hour period shall be limited to the extent to which the accident was caused, or contributed to, by the negligence of an employee of the Commission acting within the scope of the employee's official duties; or

(7) except as specially set forth in this subchapter, any other cause.

SETTLEMENT OF CLAIMS

SEC. 1415.[169] The Commission, by mutual agreement, compromise, or otherwise, may adjust and determine the amounts of the respective awards of damages pursuant to this subchapter. Such amounts may be paid only out of money[170] allotted for the maintenance and operation of the Panama Canal.[171] Acceptance by a claimant of the amount awarded to him shall be deemed to be in full settlement of such claim against the Government of the United States.

ACTIONS ON CLAIMS

SEC. 1416.[172] Subject to section 1419(b) of this Act, a claimant[173] for damages pursuant to section 1411(a) or 1412[174] of this Act who considers himself aggrieved by the findings, determination, or award of the Commission in reference to his claim may bring an action on the claim against the Commission in the United States District Court for the Eastern District of Louisiana. Subject to the

[167] 22 U.S.C. 3774.

[168] Sec. 3 of Public Law 99–209 (99 Stat. 1717) amended and restated para. (6).

[169] 22 U.S.C. 3775. Sec. 4 of Public Law 99–190 (99 Stat. 1717), struck out "Subject to subsection (b) of this section, the Commission, by" and inserted in lieu thereof "The Commission, by" at the beginning of this section. Sec. 4 also struck out subsec. (b), and dropped the paragraph designation for subsec. (a). Subsec. (b) previously read as follows:

"(b) The Commission shall not adjust and pay any claim for damages for injuries arising by reason of the presence of the vessel in the Panama Canal or adjacent waters outside the locks where the amount of the claim exceeds $120,000 but shall submit the claim to the Congress in a special report containing the material facts and the recommendation of the Commission thereon.".

[170] Sec. 3529(5) of Public Law 104–106 (110 Stat. 642) struck out "appropriated or" at this point.

[171] Sec. 4 of Public Law 99–190 (99 Stat. 1717), struck out "Such amounts shall be payable promptly out of any moneys appropriated or allotted for the maintenance and operation of the Panama Canal" and inserted in lieu thereof text beginning "Such amounts * * *".

[172] 22 U.S.C. 3776.

[173] Sec. 3509(a)(3) of Public Law 105–261; 112 Stat. 2270) struck out "A claimant" and inserted in lieu thereof "Subject to section 1419(b) of this Act, a claimant".

[174] Sec. 5(1) of Public Law 99–209 (99 Stat. 1717) struck out "1411" and inserted in lieu thereof "1411(a) or 1412".

provisions of this chapter and of applicable regulations issued pursuant to section 1801 of this Act relative to navigation of the Panama Canal and adjacent waters, such actions shall proceed and be heard by the court without a jury according to the principles of law and rules of practice obtaining generally in like cases between a private party and a department or agency of the United States. Any judgment obtained against the Commission in an action under this subchapter may be paid out of money [175] allotted for the maintenance and operation of the Panama Canal. An action for damages cognizable under this section shall not otherwise lie against the United States or the Commission, nor in any other court, than as provided in this section; nor may it lie against any officer or employee of the United States or of the Commission. Any action on a claim under this section shall be barred unless the action is brought within 180 days [176] after the date on which the Commission mails to the claimant written notification of the Commission's final determination with respect to the within one year after the date of the injury or by May 17, 1998,[177] whichever is later. Attorneys appointed by the Commission shall represent the Commission in any action arising under this subchapter.[178]

INVESTIGATION OF ACCIDENT OR INJURY GIVING RISE TO CLAIM

SEC. 1417.[179] Notwithstanding any other provision of law, a claim may not be considered under this subchapter, or an action for damages lie thereon, unless, prior to the departure from the Panama Canal of the vessel involved—

(1) [180] an investigation of the accident or injury giving rise to the claim has been completed, which shall include a hearing by the Board of Local Inspectors of the Commission; and

(2) the basis for the claim has been laid before the Commission.

BOARD OF LOCAL INSPECTORS

SEC. 1418.[181] (a) The President shall provide for the establishment of a Board of Local Inspectors of the Panama Canal Commission which shall perform, in accordance with regulations prescribed by the President—

(1) the investigations required by section 1417 of this Act; and

(2) such other duties with respect to marine matters as may be assigned by the President.

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[175] Sec. 5(2) of Public Law 99–209 (99 Stat. 1717) struck out "shall be paid out of any moneys" and inserted in lieu thereof "may be paid out of money". Sec. 3529(6) of Public Law 104–106 (110 Stat. 642) struck out "appropriated or" after "money".

[176] Sec. 3543(b)(1) of Public Law 105–85 (111 Stat. 2072) struck out "one year" and inserted in lieu thereof "180 days".

[177] Sec. 3543(b)(2) of Public Law 105–85 (111 Stat. 2072) struck out "claim, or within one year after the date of the enactment of the Panama Canal Amendments Act of 1985," and inserted in lieu thereof "within one year after the date of the injury or the date of the enactment of the Panama Canal Transition Facilitation Act of 1997,". Sec. 3512(a)(5) of Public Law 105–261 (112 Stat. 2271) struck out "the date of the enactment of the Panama Canal Transition Facilitation Act of 1997" and inserted in lieu thereof "by May 17, 1998".

[178] Sec. 5(3) of Public Law 99–209 (99 Stat. 1717) added the final two sentences of sec. 1416.

[179] 22 U.S.C. 3777.

[180] Sec. 3544 of Public Law 104–201 (110 Stat. 2867) amended and restated para. (1).

[181] 22 U.S.C. 3778.

(b) In conducting any investigation pursuant to subsection (a) of this section, the Board of Local Inspectors established pursuant to such subsection may summon witnesses, administer oaths, and require the production of books and papers necessary for such investigation.

INSURANCE

SEC. 1419.[182] (a)[183] The Commission is authorized to purchase insurance to protect the Commission against major and unpredictable revenue losses or expenses arising from catastrophic marine accidents or other unpredictable events.[184]

(b)[183] (1) The Commission may by regulation require as a condition of transit through the Panama Canal or presence in the Panama Canal or waters adjacent thereto that any potential claimant under section 1411 or 1412 of this Act be covered by insurance against the types of injuries described in those sections. The amount of insurance so required shall be specified in those regulations, but may not exceed $1,000,000.

(2) In a claim under section 1411 or 1412 of this Act for which the Commission has required insurance under this subsection, the Commission's liability shall be limited to the amount of damages in excess of the amount of insurance required by the Commission.

(3) In regulations under this subsection, the Commission may prohibit consideration or payment by it of claims presented by or on behalf of an insurer or subrogee of a claimant in a case for which the Commission has required insurance under this subsection.

## CHAPTER 5—PUBLIC PROPERTY

ASSETS AND LIABILITIES OF PANAMA CANAL COMPANY

SEC. 1501.[185] All property and other assets of the Panama Canal Company shall revert to the United States on the effective date of this Act, and, except as otherwise provided by law, the United States shall assume the liabilities, including contractual obligations, of the Panama Canal Company then outstanding. The Commission may use such property, facilities, and records of the Panama Canal Company as are necessary to carry out its functions.

TRANSFERS AND CROSS-SERVICING BETWEEN AGENCIES

SEC. 1502.[186] (a) In the interest of economy and maximum efficiency in the utilization of property and facilities of the United States, there are authorized to be transferred between departments and agencies of the United States, with or without reimbursement, such facilities, buildings, structures, improvement, stock, and equipment located in the Republic of Panama, and used for their

[182] 22 U.S.C. 3779. Sec. 6(a) of Public Law 99–209 (99 Stat. 1717) added sec. 1419.
[183] Sec. 3509(b) of Public Law 105–261 (112 Stat. 2270) added subsection designation "(a)" and added subsec. (b).
[184] Sec. 5414 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203; 101 Stat. 1330–270) added the words "or other unpredictable events".
[185] 22 U.S.C. 3781.
[186] 22 U.S.C. 3782.

activities therein, as may be mutually agreed upon by the departments and agencies involved and approved by the President of the United States or his designee.

(b) The Commission may enter into cross-serving agreements with any other department or agency of the United States for the use of facilities, furnishing of services, or performance of functions.

(c) The Commission, any department or agency of the United States, or any United States court in the Republic of Panama is authorized to transfer to the Government of the Republic of Panama any record of such Commission, department, agency, or court, or copy thereof, including any record acquired from the Canal Zone Government or Panama Canal Company (including any vital statistics record), to any other department, agency, or court of the United States if such action is determined by the Commission, the head of the department or agency concerned, or the judge of the court concerned to be in the interest of the United States. Transfer of any record or copy thereof under this section to the Government of the Republic of Panama shall be made under the coordination of and with the approval of the United States Ambassador to the Republic of Panama.

(d) The provisions of this section shall apply to the Smithsonian Institution.

DISPOSITION OF PROPERTY OF THE UNITED STATES

SEC. 1503.[187] No property of the United States located in the Republic of Panama may be disposed of except pursuant to law enacted by the Congress.

TRANSFER OF PROPERTY TO PANAMA

SEC. 1504.[188] (a)(1) On the date on which the Panama Canal Treaty of 1977 enters into force, the Secretary of State may convey to the Republic of Panama the Panama Railroad and such property located in the area which, immediately before such date, comprised the Canal Zone and which is not within the land and water areas the use of which is made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements.

(2) Property transferred pursuant to paragraph (1) of this subsection may not include buildings and other facilities, except housing, located outside such areas, the use of which is retained by the United States pursuant to the Panama Canal Treaty of 1977 and related agreements.

(b) With respect to the transfer of all other property (not described in subsection (a)(1) of this section) to be transferred in accordance with the terms of the Panama Canal Treaty of 1977 and related agreements, the Secretary of State may convey such property from time to time in accordance with the terms of such Treaty and related agreements. Before[189] the transfer of any such property, the President must submit a written report to the Congress—

[187] 22 U.S.C. 3783.
[188] 22 U.S.C. 3784.
[189] Sec. 7 of Public Law 99–223 (99 Stat. 1740) struck out "At least 180 days before" and inserted in lieu thereof "Before".

(1) precisely identifying and describing the particular property to be transferred;

(2) certifying the state of compliance by the Republic of Panama with such Treaty and related agreements; and

(3) setting forth the reasons for the conveyance being made at the particular time.

(c) The Panama Canal, and such other property referred to in paragraph 2(d) of Article XIII of the Panama Canal Treaty of 1977 that has not been previously transferred in accordance with paragraphs 2(a), 2(b), and 2(c) of such Article, shall not be transferred to the Republic of Panama prior to December 31, 1999.

## CHAPTER 6—TOLLS FOR USE OF THE PANAMA CANAL

### PRESCRIPTION OF MEASUREMENT RULES AND RATES OF TOLLS

SEC. 1601.[190] The Commission may, subject to the provisions of this Act, prescribe and from time to time change—

(1) the rules for the measurement of vessels for the Panama Canal; and

(2) the tolls that shall be levied for use of the Panama Canal.

### BASES OF TOLLS

SEC. 1602.[191] (a) Tolls on merchant vessels, army and navy transports, colliers, tankers, hospital ships, and supply ships[192] shall be based on net vessel tons of one hundred cubic feet each of actual earning capacity, or its equivalent,[193] determined in accordance with the rules for the measurement of vessels for the Panama Canal, and tolls on other floating craft shall be based on displacement tonnage. The tolls on vessels in ballast without passengers or cargo may be less than the tolls for vessels with passengers or cargo. Tolls for small vessels (including yachts), as defined by the Commission, may be set at rates determined by the Commission without regard to the preceding provisions of this subsection.[194]

(b) Tolls shall be prescribed at rates calculated to produce revenues to cover as nearly as practicable all costs of maintaining and operating the Panama Canal (including costs authorized to be paid from the Panama Canal Dissolution Fund under section 1305(c)),[195] together with the facilities and appurtenances related

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[190] 22 U.S.C. 3791. Sec. 3527 of Public Law 104–106 (110 Stat. 641) amended and restated sec. 1601, which formerly read as follows:

"SEC. 1601. (a) The President is authorized, subject to the provisions of this chapter, to prescribe and from time to time change—

"(1) the rules for the measurement of vessels for the Panama Canal; and

"(2) the tolls that shall be levied for the use of the Canal.

"(b) Such rules of measurement and tolls prevailing on the effective date of this Act shall continue in effect until changed as provided in this chapter.".

[191] 22 U.S.C. 3792.

[192] Sec. 3544(1) of the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105–85; 111 Stat. 2072) struck out "supply ships, and yachts" and inserted in lieu thereof "and supply ships".

[193] Sec. 3513 of Public Law 102–484 (106 Stat. 2657) inserted ", or its equivalent," at this point.

[194] Sec. 3544(2) of Public Law 105–85 (111 Stat. 2072) added this sentence.

[195] Sec. 3521(b)(2) of Public Law 102–484 (106 Stat. 2657) struck out "Panama Canal," and inserted in lieu thereof "Panama Canal (including costs authorized to be paid from the Panama Canal Dissolution Fund under section 1305(c)),".

thereto, including unrecovered costs incurred on or after the effective date of this Act, interest, depreciation, working capital,[196] payments to the Republic of Panama pursuant to paragraph 5 of Article III and paragraph 4 (a) and (b) of Article XIII of the Panama Canal Treaty of 1977, and capital for plant replacement, expansion, and improvements. Tolls shall not be prescribed at rates calculated to produce revenues sufficient to cover payments to the Republic of Panama pursuant to paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977.

(c) Vessels operated by the United States, including vessels of war and auxiliary vessels, and ocean-going training ships owned by the United States and operated by State nautical schools, shall pay tolls.

(d) The levy of tolls is subject to the provisions of section 1 of Article III of the treaty between the United States of America and Great Britain signed November 18, 1901, of Article I of the treaty between the United States of America and the Republic of Colombia signed April 6, 1914, and of Articles II, III, and VI of the Treaty Concerning Permanent Neutrality and Operation of the Panama Canal, between the United States of America and the Republic of Panama, signed September 7, 1977.

CALCULATION OF INTEREST

SEC. 1603.[197] (a) For purposes of sections 1311 and 1602 of this Act, interest shall be computed, at the rate determined by the Secretary of the Treasury, on the investment of the United States in the Panama Canal as shown in the accounts of the Panama Canal Company at the close of business on the day preceding the effective date of this Act, and as adjusted in accordance with subsections (b) and (c) of this section. Capital investment for interest purposes shall not include any interest during construction.

(b) The investment of the United States described in subsection (a) of this section—

(1) shall be increased by—

(A) the amount of expenditures from the Panama Canal Revolving Fund[198], and

(B) the value of property transferred to the Commission by any other department or agency of the United States, as determined in accordance with subsection (c) of this section; and

(2) shall be decreased by—

(A) the amount of the funds deposited in the Panama Canal Revolving Fund,[199]

(B) the value of property transferred to the Republic of Panama pursuant to this or any other Act on or after the

[196] Sec. 5427 of Public Law 100–203 (101 Stat. 1330–274) added "working capital,".

[197] 22 U.S.C. 3793.

[198] Sec. 5425 of title V of Public Law 100–203 (101 Stat. 1330–274) struck out "appropriations to the Commission made on or after the effective date of this Act" and inserted in lieu thereof "Panama Canal Revolving Fund".

[199] Sec. 5425 of Public Law 100–203 (101 Stat. 1330–274) struck out "covered into the Panama Canal Commission Fund pursuant to section 1302 of this Act" and inserted in lieu thereof "deposited in the Panama Canal Revolving Fund". Previously, sec. 2 of Public Law 99–195 (99 Stat. 1349) had struck out "Treasury" and inserted in lieu thereof "Panama Canal Commission Fund".

date on which the Panama Canal Treaty of 1977 enters into force, and

(C) the value of property transferred by the Commission to any other department or agency of the United States.

(c) The value of property transferred to the Commission by any other department or agency of the United States shall be determined by the Director of the Office of Management and Budget. In computing such value, such Director shall give due consideration to the cost and probable earning power of the transferred property, or the usable value to the Commission if clearly less than cost, and shall make adequate provisions for depreciation, obsolescence, and other determinable decreases in value. Insofar as practicable, the value of such transferred property shall exclude any portion of such value properly allocable to national defense.

(d)[200] The Panama Canal Commission shall pay to the Treasury of the United States interest on the investment of the United States, as determined under this section. Such interest shall be deposited in the general fund of the Treasury.

PROCEDURES

SEC. 1604.[201] (a) The Commission shall publish in the Federal Register notice of any proposed change in the rules of measurement or rates of tolls referred to in section 1601[202] of this Act. The Commission shall give interested parties an opportunity to participate in the proceedings through submission of written data, views, or arguments, and participation in a public hearing to be held not less than 30 days after the date of publication of the notice. The notice shall include the substance of the proposed change and a statement of the time, place, and nature of the proceedings. At the time of publication of such notice, the Commission shall make available to the public an analysis showing the basis and justification for the proposed change, which, in the case of a change in rates of tolls, shall indicate the conformity of the existing and proposed rates of tolls with the requirements of section 1602 of this Act, and the Commission's adherence to the requirement for full consideration of the following factors set forth in Understanding (1) incorporated in the Resolution of Ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (adopted by the United States Senate on March 16, 1978):

(1) the costs of operating and maintaining the Panama Canal;

(2) the competitive position of the use of the Canal in relation to other means of transportation;

(3) the interests of the United States and the Republic of Panama in maintaining their domestic fleets;

(4) the impact of such a change in rates of tolls on the various geographical areas of each of the two countries; and

(5) the interests of both countries in maximizing their international commerce.

[200] Sec. 5425(a)(3) of Public Law 100–203 (101 Stat. 1330–274) added subsec. (d).

[201] 22 U.S.C. 3794.

[202] Sec. 3528(1) of Public Law 104–106 (110 Stat. 641) struck out "1601(a)" and inserted in lieu thereof "1601".

(b) After consideration of the relevant matter presented, the Commission may revise the proposed rules of measurement or rates of tolls, as the case may be, except that, in the case of rates of tolls, if such revision proposes rates greater than those originally proposed, a new analysis of the proposed rates shall be made available to the public, and a new notice of the revised proposal shall be published in the Federal Register apprising interested persons of the opportunity to participate further in the proceedings through submission of written data, views, or arguments, and participation in a public hearing to be held not less than 30 days after the date of publication of the new notice. The procedure set forth in this subsection shall be followed for any subsequent revision of the proposed rates of tolls by the Commission which proposes rates higher than those in the preceding proposal.

(c)[203] After the proceedings have been conducted pursuant to subsections (a) and (b), the Commission may change the rules of measurement or rates of tolls, as the case may be. The Commission shall publish notice of any such change in the Federal Register not less than 30 days before the effective date of the change.

(d)[204] Action to change the rules of measurement for the Panama Canal or the rates of tolls for the use of the Canal pursuant to this chapter shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code.

SEC. 1605.[205] * * * [Repealed—1996]

## CHAPTER 7—GENERAL REGULATIONS

SEC. 1701.[206] * * * [Repealed—1996]

SEC. 1702.[207] * * * [Repealed—1996]

## CHAPTER 8—SHIPPING AND NAVIGATION

### Subchapter I—Operation of Canal

#### OPERATING REGULATIONS

SEC. 1801.[208] The Commission[209] may prescribe, and from time to time amend, regulations governing—

(1) the operation of the Panama Canal;

(2) the navigation of the harbors and other waters of the Panama Canal and areas adjacent thereto, including the ports of Balboa and Cristobal;

(3) the passage and control of vessels through the Panama Canal or any part thereof, including the locks and approaches thereto;

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[203] Sec. 3528(2) of Public Law 104–106 (110 Stat. 641) amended and restated subsec. (c).

[204] Sec. 3528(3) of Public Law 104–106 (110 Stat. 641) struck out subsecs. (d) and (e), and redesignated subsec. (f) as subsec. (d).

[205] Formerly at 22 U.S.C. 3795. Sec. 3546(a)(1) of Public Law 104–201 (110 Stat. 2867) repealed sec. 1605, relating to interim toll adjustment.

[206] Formerly at 22 U.S.C. 3801. Sec. 3546(a)(2) of Public Law 104–201 (110 Stat. 2867) repealed sec. 1701, relating to the authority of the President to prescribe certain regulations.

[207] Formerly at 22 U.S.C. 3802. Sec. 3546(a)(3) of Public Law 104–201 (110 Stat. 2867) repealed sec. 1702, relating to the authority of the Panama Canal Commission to prescribe certain regulations.

[208] 22 U.S.C. 3811.

[209] Sec. 3545 of Public Law 104–201 (110 Stat. 2867) struck out "President" and inserted in lieu thereof "Commission".

(4) pilotage in the Panama Canal or the approaches thereto through the adjacent waters; and

(5) the licensing of officers or other operators of vessels navigating the waters of the Panama Canal and areas adjacent thereto, including the ports of Balboa and Cristobal.

## Subchapter II—Inspection of Vessels

### VESSELS SUBJECT TO INSPECTION

SEC. 1811.[210] With the exception of private vessels merely transiting the Panama Canal, and of public vessels of all nations, vessels navigating the waters of the Panama Canal shall be subject to an annual inspection of hulls, boilers, machinery, equipment, and passenger accommodations.

### FOREIGN VESSELS

SEC. 1812.[211] With respect to a foreign vessel of a country which has inspection laws approximating those of the United States, any such vessel having an unexpired certificate of inspection duly issued by the authorities of such country shall not be subject to an inspection other than that necessary to determine whether the vessel, its boilers, and its lifesaving equipment are as stated in the certificate of inspection. A certificate of inspection may not be accepted as evidence of lawful inspection under this section unless similar privileges are granted to vessels of the United States under the laws of the country to which the vessel belongs.

### REGULATIONS GOVERNING INSPECTION

SEC. 1813.[212] The Commission shall prescribe, and from time to time may amend, regulations concerning the inspection of vessels conforming as nearly as practicable to the laws and regulations governing marine inspection by the United States Coast Guard.

## TITLE II—TREATY TRANSITION PERIOD * * * [Repealed—1996][213]

## TITLE III—GENERAL PROVISIONS

### CHAPTER 1—PROCUREMENT[214]

SEC. 3101.[215] (a) PANAMA CANAL ACQUISITION REGULATION.—(1) The Commission shall establish by regulation a comprehensive procurement system. The regulation shall be known as the "Panama Canal Acquisition Regulation" (in this section referred to as the

[210] 22 U.S.C. 3821.
[211] 22 U.S.C. 3822.
[212] 22 U.S.C. 3823.
[213] Sec. 3546(a)(4) of Public Law 104–201 (110 Stat. 2868) repealed title II, relating to the Treaty transition period. Sec. 3546(a)(4) refers to this title as including 22 U.S.C. 3841–3852. Title II, in fact, also included 22 U.S.C. 3831, relating to laws, regulations, and administrative authority continued in force during the transition.
[214] Sec. 3541 of Public Law 105–85 (111 Stat. 2070) inserted a new chapter 1. Previously, sec. 3546(a)(5) of Public Law 104–201 (110 Stat. 2868) repealed a former chapter 1 of Title III, relating to disinterment, transportation, and reinterment of remains.
[215] 22 U.S.C. 3861.

"Regulation") and shall provide for the procurement of goods and services by the Commission in a manner that—

(A) applies the fundamental operating principles and procedures in the Federal Acquisition Regulation;

(B) uses efficient commercial standards of practice; and

(C) is suitable for adoption and uninterrupted use by the Republic of Panama after the Canal Transfer Date.

(2) The Regulation shall contain provisions regarding the establishment of the Panama Canal Board of Contract Appeals described in section 3102.

(b) SUPPLEMENT TO REGULATION.—The Commission shall develop a Supplement to the Regulation (in this section referred to as the 'Supplement') that identifies both the provisions of Federal law applicable to procurement of goods and services by the Commission and the provisions of Federal law waived by the Commission under subsection (c).

(c) WAIVER AUTHORITY.—(1) Subject to paragraph (2), the Commission shall determine which provisions of Federal law should not apply to procurement by the Commission and may waive those laws for purposes of the Regulation and Supplement.

(2) For purposes of paragraph (1), the Commission may not waive—

(A) section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423);

(B) the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.), other than section 10(a) of such Act (41 U.S.C. 609(a)); or

(C) civil rights, environmental, or labor laws.

(d) CONSULTATION WITH ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY.—In establishing the Regulation and developing the Supplement, the Commission shall consult with the Administrator for Federal Procurement Policy.

(e) EFFECTIVE DATE.—The Regulation and the Supplement shall take effect on the date of publication in the Federal Register, or January 1, 1999, whichever is earlier.

PANAMA CANAL BOARD OF CONTRACT APPEALS

SEC. 3102.[216] (a) ESTABLISHMENT.—(1) The Secretary of Defense, in consultation with the Commission, may[217] establish a board of contract appeals, to be known as the Panama Canal Board of Contract Appeals, in accordance with section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607). Except as otherwise provided by this section, the Panama Canal Board of Contract Appeals (in this section referred to as the "Board") shall be subject to the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.) in the same manner as any other agency board of contract appeals established under that Act.

(2) The Board shall consist of three members. At least one member of the Board shall be licensed to practice law in the Republic of Panama. Individuals appointed to the Board shall take an oath

[216] 22 U.S.C. 3862.

[217] Sec. 3510(a)(1) of the Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV of Public Law 105–261; 112 Stat. 2270) struck out "shall" and inserted in lieu thereof "may".

of office, the form of which shall be prescribed by the Secretary of Defense.

(3)[218] Compensation for members of the Board of Contract Appeals shall be established by the Commission's supervisory board. The annual compensation established for members may not exceed the rate of basic pay established for level IV of the Executive Schedule under section 5315 of title 5, United States Code. The compensation of a member may not be reduced during the member's term of office from the level established at the time of the appointment of the member.

(b) EXCLUSIVE JURISDICTION TO DECIDE APPEALS.—Notwithstanding section 10(a)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 609(a)(1)) or any other provision of law, the Board shall have exclusive jurisdiction to decide an appeal from a decision of a contracting officer under section 8(d) of such Act (41 U.S.C. 607(d)).

(c) EXCLUSIVE JURISDICTION TO DECIDE PROTESTS.—The Board shall decide protests submitted to it under this subsection by interested parties in accordance with subchapter V of title 31, United States Code. Notwithstanding section 3556 of that title, section 1491(b) of title 28, United States Code, and any other provision of law, the Board shall have exclusive jurisdiction to decide such protests. For purposes of this subsection—

(1) except as provided in paragraph (2), each reference to the Comptroller General in sections 3551 through 3555 of title 31, United States Code, is deemed to be a reference to the Board;

(2) the reference to the Comptroller General in section 3553(d)(3)(C)(ii) of such title is deemed to be a reference to both the Board and the Comptroller General;

(3) the report required by paragraph (1) of section 3554(e) of such title shall be submitted to the Comptroller General as well as the committees listed in such paragraph;

(4) the report required by paragraph (2) of such section shall be submitted to the Comptroller General as well as Congress; and

(5) section 3556 of such title shall not apply to the Board, but nothing in this subsection shall affect the right of an interested party to file a protest with the appropriate contracting officer.

(d) PROCEDURES.—The Board shall prescribe such procedures as may be necessary for the expeditious decision of appeals and protests under subsections (b) and (c).

(e) COMMENCEMENT.—The Board shall begin to function as soon as it has been established and has prescribed procedures under subsection (d).[219]

(f) TRANSITION.—The Board shall have jurisdiction under subsections (b) and (c) over any appeals and protests filed on or after the date on which the Board begins to function. Any appeals and protests filed before such date shall remain before the forum in which they were filed.

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[218] Sec. 3510(a)(2) of Public Law 105–261 (112 Stat. 2270) added para. (3).

[219] Sec. 3510(b) of Public Law 105–261 (112 Stat. 2270) struck out ", but not later than January 1, 1999".

(g) OTHER FUNCTIONS.—The Board may perform functions similar to those described in this section for such other matters or activities of the Commission as the Commission may determine and in accordance with regulations prescribed by the Commission.

## CHAPTER 2—IMMIGRATION

### SPECIAL IMMIGRANTS

SEC. 3201.[220] * * *

## CHAPTER 3—REPORTS, AMENDMENTS; REPEALS AND REDESIGNATION; EFFECTIVE DATE

### REPORT

SEC. 3301.[221] Until the termination of the Panama Canal Treaty of 1977, the President shall report annually on the status of the exercise of the rights and responsibilities of the United States under that Treaty. Such report shall include a discussion of the following:

(1) The actions taken by the Government of the Republic of Panama with respect to the living conditions of persons who resided in the Canal Zone before the effective date of this Act and who continue to reside in those areas made available to the United States under the Agreement in Implementation of Article III of the Panama Canal Treaty.

(2) The terms, conditions, and charges for land-use licenses within the canal operating areas specified in the Agreement in Implementation of Article III of the Panama Canal Treaty.

(3) The condition of former employees (and their dependents) of the Panama Canal Company and the Canal Zone Government who reside in the Republic of Panama on or after the effective date of this Act.

### EXEMPTION FROM METRIC CONVERSION ACT OF 1975

SEC. 3302.[222] The Commission is exempt from the provisions of the Metric Conversion Act of 1975 (15 U.S.C. 205a et seq.).

### REPEALS AND REDESIGNATION

SEC. 3303.[223] * * *

### EFFECTIVE DATE

SEC. 3304. Except as provided in sections 1231, 1232, 1241, 1242, 1261, 1605, 2203, 2402, 3101, and 3201 of this Act, the preceding

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[220] Former subsecs. (a) and (b) of sec. 3201 amended several sections of the Immigration and Nationality Act. Sec. 212(a) of Public Law 103–416 (108 Stat. 4314) repealed subsec. (c) of sec. 3201, which formerly read as follows:

"(c) Notwithstanding any other provision of law, not more than 15,000 individuals may be admitted to the United States as special immigrants under subparagraphs (E), (F), or (G) of section 101(a)(27) of the Immigration and Nationality Act, as added by subsection (a) of this section, of which not more than 5,000 may be admitted in any fiscal year.".

[221] 22 U.S.C. 3871.

[222] Sec. 3547 of Public Law 104–201 (110 Stat. 2868) amended and restated sec. 3302. The former version of sec. 3302 had made amendments in several provisions of law to conform with this Act.

[223] Sec. 3303 repealed or redesignated several provisions of law to conform with this Act.

provisions of this Act shall take effect on the date on which the Panama Canal Treaty of 1977 enters into force.[224]

[224] October 1, 1979.

## b. Panama Canal Commission Compensation Fund Act of 1988

**Partial text of Public Law 100–705 [H.R. 5287], 102 Stat. 4685, approved November 19, 1988; as amended by Public Law 101–510 [National Defense Authorization Act for Fiscal Year 1991; H.R. 4739], 104 Stat. 1485, approved November 5, 1990; and Public Law 105–85 [National Defense Authorization Act for Fiscal Year 1998; H.R. 1119], 111 Stat. 1629, approved November 18, 1997**

AN ACT To establish the Panama Canal Commission Compensation Fund to provide for the accumulation of funds to meet the Panama Canal Commission's obligations under chapter 81 of title 5, United States Code, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1.[1] SHORT TITLE.**

This Act may be cited as the "Panama Canal Commission Compensation Fund Act of 1988".

**SEC. 2.[2] ESTABLISHMENT OF COMPENSATION FUND.**

There is established in the Treasury of the United States the Panama Canal Commission Compensation Fund (hereafter in this Act referred to as the "Fund").

**SEC. 3.[3] OPERATION OF THE FUND.**

(a) DEPOSITS TO THE FUND.—The Panama Canal Commission shall make deposits on a regular basis to the Fund, beginning on October 1, 1988, to accumulate an amount sufficient to defray the estimated total cost of liability for the workers' compensation benefits and other payments payable under chapter 81 of title 5, United States Code, for the disability or death of employees of the Panama Canal Commission or any of its predecessor agencies on account of injuries sustained on or before December 31, 1999, except for those claims arising before, on, or after October 1, 1988, for which the Secretary of Labor has assumed fiscal responsibility.

(b) CALCULATION OF AMOUNTS TO BE DEPOSITED.—The amounts deposited under subsection (a) shall be based upon periodic actuarial studies conducted by experts or consultants whose services are procured by the Panama Canal Commission by contract. The amounts of such deposits shall take into consideration interest earnings in accordance with subsection (c) of this section and expected cost-of-living adjustments as provided in section 8146a of title 5, United States Code, but not amounts payable by the Commission for continuation of pay pursuant to section 8118 of such title.

(c) INVESTMENT OF AMOUNTS IN THE FUND.—The Secretary of the Treasury, upon the request of the Secretary of Labor, shall invest

[1] 22 U.S.C. 3601 note.
[2] 22 U.S.C. 3715.
[3] 22 U.S.C. 3715a.

moneys in the Fund in public debt securities which shall bear interest at rates determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturity. Such interest shall be credited to and form part of the Fund.

**SEC. 4.[4] TRANSFERS FROM THE FUND FOR COMPENSATION BENEFITS.**

The Secretary of the Treasury shall, upon request of the Secretary of Labor, transfer funds from the Fund to the Employees' Compensation Fund to reimburse the Employees' Compensation Fund for the total cost of workers' compensation benefits and other payments described in section 3(a) that are provided on or after October 1, 1988.

**SEC. 5.[5] FINAL EVALUATION OF THE FUND; DEFICIENCY OR SURPLUS IN THE FUND.**

(a) FINAL EVALUATION OF THE FUND.—By March 31, 1998, the Secretary of Labor[6] shall, on the basis of an actuarial study conducted by experts or consultants whose services are procured by the Secretary of Labor by contract, make a final determination of the amounts estimated to be necessary to meet expenditures for workers' compensation benefits and other payments described in section 3(a), as calculated in accordance with the second sentence of section 3(b). Amounts in the Fund shall be used to pay for the final determination under this subsection.[7]

(b) DEFICIENCY OR SURPLUS IN THE FUND.—If amounts in the Fund are not sufficient to meet expenditures as determined by the Secretary of Labor under subsection (a)[8] for workers' compensation benefits and other payments described in section 3(a), then amounts in the Panama Canal Revolving Fund not otherwise obligated shall be transferred to the Fund[9] to make up the deficiency. Any amounts remaining in the Fund in excess of the final determination amount as described in subsection (a) shall be transferred to the Panama Canal Revolving Fund, and may be used to satisfy lawful obligations of the Revolving Fund arising on or before December 31, 1999.

(c)[10] CONTINUITY OF THE FUND.—(1) Amounts in the Fund (including amounts transferred as a result of the final determination made under subsection (a)) shall be maintained by the Secretary of the Treasury, shall be made available for transfer to the Employees' Compensation Fund in such amounts as are requested by the

[4] 22 U.S.C. 3715b.

[5] 22 U.S.C. 3715c.

[6] Sec. 3507(1) of Public Law 101–510 (104 Stat. 1847) struck out "Upon the termination of the Panama Canal Commission:" preceding subsec. (a). In subsec. (a), sec. 3507(2)(A) of that Act struck out "The Secretary of Labor" and inserted in lieu thereof "Upon the termination of the Panama Canal Commission, the Secretary of Labor". Subsequently, sec. 3545 of Public Law 105–85 (111 Stat. 2072) struck out "Upon the termination of the Panama Canal Commission" and inserted in lieu thereof "By March 31, 1998".

[7] Sec. 3507(2)(B) of Public Law 101–510 (104 Stat. 1847) struck out "The Secretary of the Treasury shall, in accordance with such final determination, transfer from the Fund to the Employee Compensation Fund amounts sufficient to meet expenditures for workers' compensation benefits and other payments described in section 3(a).".

[8] Sec. 3507(3)(A) of Public Law 101–510 (104 Stat. 1847) inserted "under subsection (a)".

[9] Sec. 3507(3)(B) of Public Law 101–510 (104 Stat. 1847) struck out "Employees Compensation" before "Fund".

[10] Sec. 3507(4) of Public Law 101–510 (104 Stat. 1847) added subsec. (c).

Secretary of Labor pursuant to section 4, and may be discontinued only in accordance with paragraph (2).

(2) At such time as the Secretary of Labor certifies that no further liability exists for workers compensation benefits or other payments described in section 3(a), the Secretary of the Treasury may discontinue the Fund in the manner provided by law.

**SEC. 6.**[11] **CONTINUATION OF BENEFITS.**

The provisions of chapter 81 of title 5, United States Code, shall, on or after the effective date of this Act, continue to be the exclusive remedy, in accordance with section 8116 of such title, for the disability or death of any employee of the Panama Canal Commission, or any of its predecessor agencies, who is covered under such chapter, resulting from injuries sustained while in the performance of the employee's duty. The rights of any such employee for workers' compensation benefits shall be based only on the provisions of the chapter.

**SEC. 7.**[12] * * *

**SEC. 8.**[12] * * *

**SEC. 9.**[12] * * *

**SEC. 10. EFFECTIVE DATE.**

This Act takes effect on October 1, 1988.

[11] 22 U.S.C. 3715d.
[12] Secs. 7 through 9 amended the Panama Canal Act of 1979.

## c. Panama Canal—Report to Congress

**Partial text of Public Law 100–203 [Omnibus Budget Reconciliation Act of 1987; H.R. 3545], 101 Stat. 1330 at 1330–271, approved December 22, 1987**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

* * * * * * *

## TITLE V—ENERGY AND ENVIRONMENTAL PROGRAMS

* * * * * * *

## Subtitle E—Panama Canal

* * * * * * *

## PART 1—PANAMA CANAL REAUTHORIZATION

* * * * * * *

SEC. 5418. REPORT TO CONGRESS.

Out of the funds authorized to be appropriated by this part, the Commission[1] shall prepare and submit to the Congress a report on—

(1) the condition of the Panama Canal and potential adverse effects on United States shipping and commerce;

(2) the effect on canal operations of the military forces under General Noriega; and

(3) the Commission's evaluation of the effect on canal operations if the Panamanian Government continues to withhold its consent to major factors in the United States Senate's ratification of the Panama Canal Treaties.

* * * * * * *

[1] The Panama Canal Commission.

## d. Delegation of Panama Canal Functions

**Executive Order 12215, May 27, 1980, 45 F.R. 36043, 22 U.S.C. 3601 note; as amended by Executive Order 12652, September 19, 1988, 53 F.R. 36775**

By the authority vested in me as President of the United States of America by the Panama Canal Code (76A Stat. 1), as amended, by the Panama Canal Act of 1979 (93 Stat. 452; 22 U.S.C. 3601 *et seq.*), and by Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

### 1–1. The Secretary of Defense.

1–101. The Secretary of Defense shall develop for the President's consideration an appropriate legislative proposal as required by Section 3(d) of the Panama Canal Act of 1979 (93 Stat. 456; 22 U.S.C. 3602(d)). The Secretary of Defense shall coordinate development of this proposal with the Secretary of State and the heads of other interested Executive agencies.

1–102. The function vested in the President by Section 1212(d)(1) of the Panama Canal Act of 1979 (93 Stat. 464; 22 U.S.C. 3652(d)(1)) to exclude employees of, or positions within, the Department of Defense from coverage under any provision of subchapter II, Chapter 2 of Title I of the Panama Canal Act of 1979, is delegated to the Secretary of Defense.

1–103. The function vested in the President by Section 1281(b) of Title 6 of the Panama Canal Code (76A Stat. 455; 6 P.C.C. 1281(b)), as amended, with respect to areas and installations made available to the United States pursuant to the Agreement in Implementation of Article IV of the Panama Canal Treaty of 1977 is delegated to the Secretary of Defense.

1–104. The function vested in the President by Section 1701 of the Panama Canal Act of 1979 (93 Stat. 492; 22 U.S.C. 3801), with respect to regulations applicable within the areas and installations made available to the United States pursuant to the Agreement in Implementation of Article IV of the Panama Canal Treaty of 1977, is delegated to the Secretary of Defense.

1–105. The functions vested in the President by Sections 1243(c)(1) and 2401 of the Panama Canal Act of 1979 (93 Stat. 474 and 495; 22 U.S.C. 3681(c)(1) and 3851) are delegated to the Secretary of Defense.

1–106. The functions vested in the President by Section 1502(a) of the Panama Canal Act of 1979 (93 Stat. 488; 22 U.S.C. 3782(a)) are delegated to the Secretary of Defense.

### 1–2. Coordination of Pay and Employment Practices.

1–201. In order to coordinate the policies and activities of agencies under subchapter II of Chapter 2 of Title I of the Panama

Canal Act of 1979 (93 Stat. 463; 22 U.S.C. 3651 *et seq.*), each agency shall periodically consult with the Secretary of Defense with respect to the establishment of rates of pay, in order to develop compatible or unified systems of basic pay. In addition, each agency shall consult with the Secretary of Defense on such other matters as the Secretary may deem appropriate in order to develop compatible or unified employment practices.

1–202. The head of each agency shall, upon approval by the Secretary of Defense, adopt a schedule of basic pay pursuant to Section 1215 of the Panama Canal Act of 1979 (93 Stat. 465; 22 U.S.C. 3655) and adopt regulations governing other matters relating to pay and employment practices.

1–203. The authority vested in the President by Section 1223(a) of the Panama Canal Act of 1979 to coordinate the policies and activities of agencies (93 Stat. 467; 22 U.S.C. 3663(a)) is delegated to the Secretary of Defense. The Secretary shall exercise such functions in a manner which is in accord with the provisions of Sections 1–201 and 1–202 of this Order.

**1–3. Panama Canal Commission.**

1–301. The functions vested in the President and delegated to the Secretary of Defense in this Section 1–3 of this Order shall be carried out by the Secretary of Defense, who shall, in carrying out the said functions, provide, by redelegation or otherwise, for their performance, in a manner consistent with paragraph 3 of Article III of the Panama Canal Treaty of 1977, by the Panama Canal Commission.

1–302. The authority of the President under Section 1104 of the Panama Canal Act of 1979 (93 Stat. 457; 22 U.S.C. 3614) to fix the compensation of and to define the authorities and duties of the Deputy Administrator and the Chief Engineer is delegated to the Secretary of Defense.

1–303. The functions vested in the President by Sections 1418, 1801, and 2206 of the Panama Canal Act of 1979 (93 Stat. 487, 492, and 494; 22 U.S.C. 3778, and 3844) are delegated to the Secretary of Defense.

1–304. The authority of the President under Section 1701 of the Panama Canal Act of 1979 (93 Stat. 492; 22 U.S.C. 3801) with respect to regulations applicable within the areas and installations made available to the United States pursuant to the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977 is delegated to the Secretary of Defense.

1–305. The function vested in the President by Section 1281(b) of Title 6 of the Panama Canal Code (76A Stat. 455; 6 P.C.C. 1281(b)), as amended, with respect to areas and installations in the Republic of Panama made available to the United States pursuant to the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977 is delegated to the Secretary of Defense.

1–306. The function vested in the President by Sections 82 and 86 of Title 3 of the Panama Canal Code (76A Stat. 54 and 55; 3 P.C.C. 82 and 86), as amended, are delegated to the Secretary of Defense.

1–307.[1] * * * [Rescinded—1988]

1–308. Except to the extent heretofore delegated, the functions vested in the President pursuant to subchapter II of Chapter 2 of Title I of the Panama Canal Act of 1979 (93 Stat. 463) are hereby delegated to the Secretary of Defense.

## 1–4. Other Agencies.

1–401. The functions vested in the President by Sections 1111 and 3301 of the Panama Canal Act of 1979 (93 Stat. 459 and 497; 22 U.S.C. 3621 and 3871), are delegated to the Secretary of State. The Secretary shall perform these functions in coordination with the Secretary of Defense.

1–402. The functions vested in the President by Sections 1112(d), 1344(b), and 1504(b) of the Panama Canal Act of 1979 (93 Stat. 460, 484, and 488; 22 U.S.C. 3622(d), 3754(b), and 3784(b)) are delegated to the Secretary of State.

1–403. The functions vested in the President by Section 1243(a)(1) of the Panama Canal Act of 1979 (93 Stat. 473; 22 U.S.C. 3681(a)(1)) are delegated to the Director of the Office of Personnel Management.

1–404. Paragraphs (22) and (23) of Section 1 of Executive Order No. 11609, as amended, and Executive Order No. 11713 are revoked.

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[1] Sec. 1 of Executive Order 12652 of September 19, 1988 (53 F.R. 36775; September 22, 1988), rescinded sec. 1–307. It formerly read as follows:

"1–307. The functions vested in the President by subsections (a), (b) and (c) of Section 8146 of Title 5 of the United States Code, as they apply to the employees of the Panama Canal Commission, are delegated to the Secretary of Defense.".

Executive Order 12652 also provided:

"**Sec. 2.** The transfer and other exercises of authority made pursuant to Section 1–307 of Executive Order 12215 in Department of Defense Memorandum, 'Implementation of Executive Order 12215, "Delegation of Panama Canal Functions",' July 18, 1980, are rescinded.

"**Sec. 3.** This Order shall be effective January 1, 1989.".

# H. UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS

CONTENTS


Page

1. United Nations Participation Act of 1945, as amended (Public Law 79–264) ..... 927
2. Department of State Authorization Act, Fiscal Year 2003 (Public Law 107–228) (partial text) ..... 945
3. United Nations Reform Act of 1999 (Public Law 106–113) (partial text) ..... 949
4. United Nations Headquarters Agreement Act (Public Law 80–357) (partial text) ..... 961
5. U.S. Participation in Certain International Organizations (Public Law 81–806) (partial text) ..... 965
6. Appropriations Limitation on Contributions to International Organizations (Public Law 92–544) (partial text) ..... 966
7. U.N. Provisions in Foreign Relations Authorization Acts ..... 968
8. United Nations Peacekeeping Forces in the Middle East (Public Law 94–37) ..... 969
9. Response to United Nations Resolution on Zionism ..... 970
10. United Nations Environment Program Participation Act of 1973 (Public Law 93–188) ..... 971
11. Support of Peaceful Settlement of Disputes (Executive Order 10206) ..... 972
12. Privileges and Immunities ..... 973
    - a. International Organizations Immunities Act, as amended (Public Law 79–291) (partial text) ..... 973
    - b. Extending Certain Privileges to Representatives of Member States on the Council of the Organization of American States (Public Law 82–486) ..... 982
    - c. Extending Diplomatic Privileges to the Mission of the Commission of the European Communities (Public Law 92–499) ..... 983
    - d. Extending Diplomatic Privileges to the Liaison Office of the People's Republic of China (Public Law 93–22) ..... 984
    - e. Extending Certain Privileges to the International Development Law Institute (Public Law 102–511) (partial text) ..... 985
    - f. Extending Certain Privileges to Hong Kong Economic and Trade Offices (Public Law 105–22) ..... 986
    - g. Extending Diplomatic Privileges to the Permanent Observer Mission of the Holy See to the United Nations (Public Law 109–472) (partial text) ..... 987
    - h. Protection and Prevention of Crimes Against Internationally Protected Persons (18 U.S.C.) (partial text) ..... 988
    - i. U.S. Secret Service ..... 996
        - (1) Protection of Foreign Diplomatic Missions by the U.S. Secret Service (18 U.S.C. 3056A) (partial text) ..... 996
        - (2) Transfer of Authority to the Secretary of State To Make Reimbursements for Protection of Foreign Missions to International Organizations (Executive Order 12478) ..... 998
    - j. Foreign Sovereign Immunities (28 U.S.C.) (partial text) ..... 999
    - k. Diplomatic Relations Act (Public Law 95–393) (partial text) ..... 1011
    - l. Diplomatic Reciprocity ..... 1014
        - (1) Equivalency of Representation Between the United States and Hostile Powers (Public Law 98–618) (partial text) ..... 1014
        - (2) Soviet Employees on U.S. Diplomatic Premises (Public Law 99–93) (partial text) ..... 1016

13. Relating to International Agreements on Children ..... 1017
a. Intercountry Adoption Act of 2000 (Public Law 106–279) (partial text) ..... 1017
b. Extradition Treaties Interpretation Act of 1998 (Public Law 105–323) (partial text) ..... 1036
c. International Child Abduction Remedies Act (Public Law 100–300) (partial text) ..... 1037
d. Relating to the Implementation of the Convention on the Civil Aspects of International Child Abduction (Executive Order 12648) ..... 1045
e. Child Health Revolution (Public Law 98–198) ..... 1046

## 1. United Nations Participation Act of 1945, as amended [1]

**Public Law 79–264 [S. 1580], 59 Stat. 619, approved December 20, 1945; as amended by Public Law 81–216 [National Security Act Amendments of 1949, H.R. 5632], 63 Stat. 578, approved August 10, 1949; Public Law 81–341 [H.R. 4708], 63 Stat. 734, approved October 10, 1949; Public Law 86–707 [Overseas Differentials and Allowances Act, H.R. 7758], 74 Stat. 792, approved September 6, 1960; Public Law 89–206 [S. 1903], 79 Stat. 841, approved September 28, 1965; Public Law 93–126 [Department of State Appropriations Authorization Act of 1973, H.R. 7645], 87 Stat. 451, approved October 18, 1973; Public Law 95–12 [H.R. 1746], 91 Stat. 22, approved March 18, 1977; Public Law 96–465 [Foreign Service Act of 1980, H.R. 6790], 94 Stat. 2071 at 2160, approved October 17, 1980; Public Law 97–241 [Department of State Authorization Act, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273 at 279 and 280, approved August 24, 1982; Public Law 98–164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017 at 1035, approved November 22, 1983; Public Law 100–459 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989; H.R. 4782], approved October 1, 1988; Public Law 103–236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 106–113 [Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001; H.R. 3427, enacted by reference], 113 Stat. 1536, approved November 29, 1999; Public Law 106–309 [Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000; H.R. 1143], 114 Stat. 1078, approved October 17, 2000; and Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002**

AN ACT To provide for the appointment of representatives of the United States in the organs and agencies of the United Nations, and to make other provision with respect to the participation of the United States in such organization.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "United Nations Participation Act of 1945".

SEC. 2. (a) [2] The President, by and with the advice and consent of the Senate, shall appoint a representative of the United States to the United Nations who shall have the rank and status of Ambassador Extraordinary and Plenipotentiary and shall hold office at the pleasure of the President. Such representative shall represent

[1] See related legislation: Department of State Authorization Act, Fiscal Year 2003, particularly sec. 113 and title IV; Department of State and Related Agency Appropriations Act, 2002, particularly sec. 404; Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, especially title VII, subtitle B; Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, especially title IV, part A; Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, secs. 161, 170, 174, 175, 192, 212, and 364; Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, secs. 406 through 408; Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, title VII and sec. 1211; Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, sec. 151; Department of State Authorization Act, Fiscal Years 1984 and 1985, secs. 113 through 116, 118, and 119; Department of State Authorization Act, Fiscal Years 1982 and 1983, secs. 104, 108, and 109; Foreign Relations Authorization Act, Fiscal Year 1979, secs. 103 and 609; Foreign Relations Authorization Act, Fiscal Year 1978, sec. 503; and Foreign Relations Authorization Act, Fiscal Year 1976, secs. 205 and 503.

[2] 22 U.S.C. 287. Sec. 1(a) of Public Law 89–206 (79 Stat. 841) amended and restated subsecs. (a) and (b); previously, sec. 2 of Public Law 81–341 (63 Stat. 734) had amended and restated these subsections.

the United States in the Security Council of the United Nations and may serve ex officio as representative of the United States in any organ, commission, or other body of the United Nations other than specialized agencies of the United Nations, and shall perform such other functions in connection with the participation of the United States in the United Nations as the President may, from time to time, direct.

(b)[2] The President, by and with the advice and consent of the Senate, shall appoint additional persons with appropriate titles, rank, and status to represent the United States in the principal organs of the United Nations and in such organs, commissions, or other bodies as may be created by the United Nations with respect to nuclear energy or disarmament (control and limitation of armament). Such persons shall serve at the pleasure of the President and subject to the direction of the Representative of the United States to the United Nations. They shall, at the direction of the Representative of the United States to the United Nations, represent the United States in any organ, commission, or other body of the United Nations, including the Security Council, the Economic and Social Council, and the Trusteeship Council, and perform such other functions as the Representative of the United States is authorized to perform in connection with the participation of the United States in the United Nations. Any Deputy Representative or any other officer holding office at the time the provisions of this Act, as amended, become effective shall not be required to be reappointed by reason of the enactment of this Act, as amended.

(c)[3] The President, by and with the advice and consent of the Senate, shall designate from time to time to attend a specified session or specified sessions of the General Assembly of the United Nations not to exceed five representatives of the United States and such number of alternates as he may determine consistent with the rules of procedure of the General Assembly. One of the representatives shall be designated as the senior representative.

(d)[4] The President may also appoint from time to time such other persons as he may deem necessary to represent the United States in organs and agencies of the United Nations. The President may, without the advice and consent of the Senate, designate any officer of the United States to act without additional compensation as the representative of the United States in either the Economic and Social Council or the Trusteeship Council (1) at any specified session thereof where the position is vacant or in the absence or disability of the regular representative or (2) in connection with a specified subject matter at any specified session of either such council in lieu of the regular representative. The President may designate any officer of the Department of State, whose appointment is subject to confirmation by the Senate, to act, without additional compensation, for temporary periods as the representative of the United States in the Security Council of the United Nations in the absence or disability of the representatives provided for under

[3] Sec. 1 of Public Law 81–341 (63 Stat. 734) amended and restated subsec. (c).

[4] Sec. 1(b) of Public Law 89–206 (79 Stat. 841) amended and restated subsec. (d); sec. 1 of Public Law 81–341 (63 Stat. 735) previously had amended and restated this subsection.

section 2 (a) and (b) or in lieu of such representatives in connection with a specified subject matter.

(e)[5] The President, by and with the advice and consent of the Senate, shall appoint a representative of the United States to the European office of the United Nations with appropriate rank and status who shall serve at the pleasure of the President and subject to the direction of the Secretary of State. Such person shall, at the direction of the Secretary of State, represent the United States at the European office of the United Nations, and perform such other functions there in connection with the participation of the United States in international organizations as the Secretary of State may, from time to time, direct.

(f)[5] Nothing contained in this section shall preclude the President, or the Secretary of State, at the direction of the President from representing the United States at any meeting or session of any organ or agency of the United Nations.

(g)[5] All persons appointed in pursuance of authority contained in this section shall receive compensation at rates determined by the President upon the basis of duties to be performed but not in excess of rates authorized by sections 401, 402, and 403 of the Foreign Service Act of 1980 for chiefs of mission, members of the Senior Foreign Service, and Foreign Service officers occupying positions of equivalent importance, except that no Member of the Senate or House of Representatives or officer of the United States who is designated under subsections (c) and (d) of this section as a representative of the United States or as an alternate to attend any specified session or specified sessions of the General Assembly shall be entitled to receive such compensation.[6]

(h)[7] The President, by and with the advice and consent of the Senate, shall appoint a representative of the United States to the Vienna office of the United Nations with appropriate rank and status, who shall serve at the pleasure of the President and subject to the direction of the Secretary of State. Such individual shall, at the direction of the Secretary of State, represent the United States at the Vienna office of the United Nations and perform such other functions there in connection with the participation of the United States in international organizations as the Secretary of State from time to time may direct. The representative of the United States to the Vienna office of the United Nations shall also serve as representative of the United States to the International Atomic Energy Agency.[8]

SEC. 3.[9] The representatives provided for in section 2 hereof, when representing the United States in the respective organs and

[5] Sec. 2 of Public Law 81–341 (61 Stat. 735) added a new subsec. (f). Subsequently, sec. 2 of Public Law 89–206 (79 Stat. 841) redesignated subsecs. (e) and (f) as subsecs. (f) and (g) respectively, and added a new subsec. (e).

[6] Sec. 2206(a)(2) of Public Law 96–465 (94 Stat. 2160) added the references in this sentence to the Foreign Service Act of 1980 and to the Senior Foreign Service, effective February 15, 1981. These references replaced references to the Foreign Service Act of 1946.

[7] Sec. 118 of the Department of State Authorization Act, Fiscal Years 1982 and 1983 (Public Law 97–273; 96 Stat. 279) added subsec. (h).

[8] Sec. 708(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference in sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1536), added the last sentence of this subsection.

[9] 22 U.S.C. 287a.

agencies of the United Nations, shall, at all times, act in accordance with the instructions of the President transmitted by the Secretary of State unless other means of transmission is directed by the President, and such representatives shall, in accordance with such instructions, cast any and all votes under the Charter in the United Nations.

SEC. 4.[10] (a) PERIODIC REPORTS.—[11] The President shall, from time to time as occasion may require, but not less than once each year, make reports to the Congress of the activities of the United Nations and of the participation of the United States therein.[12]

(b)[13] ANNUAL REPORT ON FINANCIAL CONTRIBUTIONS.—Not later than July 1 of each year, the Secretary of State shall submit a report to the designated congressional committees on the extent and disposition of all financial contributions made by the United States during the preceding year to international organizations in which the United States participates as a member.

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[10] In sec. 1(17) of Executive Order 13313, dated July 31, 2003 (68 F.R. 46073; August 5, 2003), the President assigned the reporting requirements of sec. 4 to the Secretary of State.

[11] 22 U.S.C. 287b. Sec. 406 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 448), inserted "(a) PERIODIC REPORTS.—", and added new subsecs. (b) and (c). Subsequently, sec. 405(a)(1) of the Department of State Authorization Act, Fiscal Year 2003 (division A of Public Law 107–228; 116 Stat. 1390), struck out subsecs. (b) and (c), which formerly read as follows:

"(b) TRANSMITTAL OF SECURITY COUNCIL RESOLUTIONS.—Not later than 3 days (excluding Saturdays, Sundays, and legal holidays) after adoption of any resolution by the Security Council, the Secretary of State shall transmit the text of such resolution and any supporting documentation to the designated congressional committees.

"(c) REPORTS ON PEACEKEEPING OPERATIONS.—The Secretary of State shall promptly transmit to the designated congressional committees any published report prepared by the United Nations and distributed to the members of the Security Council that contains assessments of any proposed, ongoing, or concluded United Nations peacekeeping operation.".

Sec. 405(a)(2) of that Act added the current subsec. (b).

[12] Sec. 724(a)(1) of Public Law 106–113 (113 Stat. 1536) struck out "He shall make special current reports on decisions of the Security Council to take enforcement measures under the provisions of the Charter of the United Nations, and on the participation therein, under his instructions, of the representative of the United States.".

[13] Sec. 405(a)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 448) added this subsection. See also sec. 1225 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2424), which provides as follows:

**"SEC. 1225. ANNUAL REPORTS ON UNITED STATES CONTRIBUTIONS TO THE UNITED NATIONS.**

"(a) ANNUAL REPORT.—Not later than 90 days after the date of the enactment of this Act and annually thereafter until December 31, 2010, the President shall submit to Congress a report listing all assessed and voluntary contributions of the United States Government for the preceding fiscal year to the United Nationsand United Nations affiliated agencies and related bodies.

"(b) CONTENTS.—Each report required under subsection (a) shall set forth, for the fiscal year covered by such report, the following:

"(1) The total amount of all assessed and voluntary contributions of the United States Government to the United Nations and United Nations affiliated agencies and related bodies.

"(2) The approximate percentage of United States Government contributions to each United Nations affiliated agency or body in such fiscal year when compared with all contributions to such agency or body from any source in such fiscal year.

"(3) For each such contribution—

"(A) the amount of such contribution;

"(B) a description of such contribution (including whether assessed or voluntary);

"(C) the department or agency of the United States Government responsible for such contribution;

"(D) the purpose of such contribution; and

"(E) the United Nations or United Nations affiliated agency or related body receiving such contribution.".

(c)[14] ANNUAL REPORT.—In addition to the report required by subsection (a), the President, at the time of submission of the annual budget request to the Congress, shall submit to the designated congressional committees a report that includes the following:

(1) COSTS OF PEACEKEEPING OPERATIONS.—

(A) In accordance with section 407(a)(5)(B) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, a description of all assistance provided by the United States to the United Nations to support peacekeeping operations during the previous calendar quarter and during the previous year.

(B) With respect to United Nations peacekeeping operations—

(i) the aggregate cost of all United Nations peacekeeping operations for the prior fiscal year;

(ii) the costs of each United Nations peacekeeping operation for the prior fiscal year; and

(iii) the amount of United States contributions (both assessed and voluntary) to United Nations peacekeeping operations on an operation-by-operation basis for the prior fiscal year.

(C) With respect to other international peacekeeping operations in which the United States participates—

(i) the aggregate cost of all such operations for the prior fiscal year;

(ii) the costs of each such operation for the prior fiscal year; and

(iii) the amount of United States contributions (both assessed and voluntary) to such operations on an operation-by-operation basis for the prior fiscal year.

(D) In the case of the first 2 reports submitted pursuant to this subsection, a projection of all United States costs for United Nations peacekeeping operations during each of the next 2 fiscal years, including assessed and voluntary contributions.

(2) OTHER MATTERS REGARDING PEACEKEEPING OPERATIONS.—

(A) An assessment of the effectiveness of ongoing international peacekeeping operations, their relevance to United States national interests, the efforts by the United Nations and other international organizations (as applicable) to resolve the relevant armed conflicts, and the projected termination dates for all such operations.

(B) The dollar value and percentage of total peacekeeping contracts that have been awarded to United States contractors during the previous year.

(3) UNITED NATIONS REFORM.—

(A)(i) A description of the status of efforts to establish and implement an independent office of the Inspector General at the United Nations.

[14] Sec. 407(b) of Public Law 103–236 (108 Stat. 450) originally added this subsection as subsec. (d). Sec. 405(a)(4) of Public Law 107–228 (116 Stat. 1391) redesignated the former subsec. (d) as subsec. (c) as a technical amendment in connection with sec. 405(a)(1) of that Act, which had struck out the former subsec. (c).

(ii) If an office of the Inspector General has been established at the United Nations, a discussion of whether the Inspector General is keeping the Secretary General and the members of the General Assembly fully informed about problems, deficiencies, the necessity for corrective action, and the progress of corrective action.

(iii) For purposes of this subparagraph, the term 'office of the Inspector General' means an independent office (or other independent entity) established by the United Nations to conduct and supervise objective audits, inspections, and investigations relating to the programs and operations of the United Nations.

(B) A description of the status of efforts to reduce the United States peacekeeping assessment rate.

(C) A description of the status of other United States efforts to achieve financial and management reform at the United Nations.

(4) MILITARY PERSONNEL PARTICIPATING IN MULTINATIONAL FORCES.—A description of—

(A) the status under international law of members of multinational forces, including the legal status of such personnel if captured, missing, or detained;

(B) the extent of the risk for United States military personnel who are captured while participating in multinational forces in cases where their captors fail to respect the 1949 Geneva Conventions and other international agreements intended to protect prisoners of war; and

(C) the specific steps that have been taken to protect United States military personnel participating in multinational forces, together (if necessary) with any recommendations for the enactment of legislation to achieve that objective.

(5) HUMAN RIGHTS AND U.N. PEACEKEEPING FORCES.—A description of the efforts by United Nations peacekeeping forces to promote and protect internationally recognized human rights standards, including the status of investigations in any case of alleged human rights violations during the preceding year by personnel participating in United Nations peacekeeping forces, as well as any action taken in such cases.

(d)[15] CONSULTATIONS AND REPORTS ON UNITED NATIONS PEACEKEEPING OPERATIONS.—

(1) CONSULTATIONS.—Each month the President shall consult with Congress on the status of United Nations peacekeeping operations.

(2) INFORMATION TO BE PROVIDED.—In connection with such consultations, the following information shall be provided each month to the designated congressional committees:

(A) With respect to ongoing United Nations peacekeeping operations, the following:

[15] Sec. 407(b) of Public Law 103–236 (108 Stat. 450) originally added this subsection as subsec. (e). Sec. 724(b) of Public Law 106–113 (113 Stat. 1536) subsequently amended and restated subsec. (e) in its entirety. Sec. 405(a)(4) of Public Law 107–228 (116 Stat. 1391) later redesignated this subsection from subsec. (e) to subsec. (d).

(i) A list of all resolutions of the United Nations Security Council anticipated to be voted on during such month that would extend or change the mandate of any United Nations peacekeeping operation.

(ii) For each such operation, any changes in the duration, mandate, and command and control arrangements that are anticipated as a result of the adoption of the resolution.

(iii) An estimate of the total cost to the United Nations of each such operation for the period covered by the resolution, and an estimate of the amount of that cost that will be assessed to the United States.

(iv) Any anticipated significant changes in United States participation in or support for each such operation during the period covered by the resolution (including the provision of facilities, training, transportation, communication, and logistical support, but not including intelligence activities reportable under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.)), and the estimated costs to the United States of such changes.

(B) With respect to each new United Nations peacekeeping operation that is anticipated to be authorized by a Security Council resolution during such month, the following information for the period covered by the resolution:

(i) The anticipated duration, mandate, and command and control arrangements of such operation, the planned exit strategy, and the vital national interest to be served.

(ii) An estimate of the total cost to the United Nations of the operation, and an estimate of the amount of that cost that will be assessed to the United States.

(iii) A description of the functions that would be performed by any United States Armed Forces participating in or otherwise operating in support of the operation, an estimate of the number of members of the Armed Forces that will participate in or otherwise operate in support of the operation, and an estimate of the cost to the United States of such participation or support.

(iv) A description of any other United States assistance to or support for the operation (including the provision of facilities, training, transportation, communication, and logistical support, but not including intelligence activities reportable under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.)), and an estimate of the cost to the United States of such assistance or support.

(v) A reprogramming of funds pursuant to section 34 of the State Department Basic Authorities Act of 1956, submitted in accordance with the procedures set forth in such section, describing the source of funds that

will be used to pay for the cost of the new United Nations peacekeeping operation, provided that such notification shall also be submitted to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

(3) FORM AND TIMING OF INFORMATION.—

(A) FORM.—The President shall submit information under clauses (i) and (iii) of paragraph (2)(A) in writing.

(B) TIMING.—

(i) ONGOING OPERATIONS.—The information required under paragraph (2)(A) for a month shall be submitted not later than the 10th day of the month.

(ii) NEW OPERATIONS.—The information required under paragraph (2)(B) shall be submitted in writing with respect to each new United Nations peacekeeping operation not less than 15 days before the anticipated date of the vote on the resolution concerned unless the President determines that exceptional circumstances prevent compliance with the requirement to report 15 days in advance. If the President makes such a determination, the information required under paragraph (2)(B) shall be submitted as far in advance of the vote as is practicable.

(4) NEW UNITED NATIONS PEACEKEEPING OPERATION DEFINED.—As used in paragraph (2), the term "new United Nations peacekeeping operation" includes any existing or otherwise ongoing United Nations peacekeeping operation—

(A) where the authorized force strength is to be expanded;

(B) that is to be authorized to operate in a country in which it was not previously authorized to operate; or

(C) the mandate of which is to be changed so that the operation would be engaged in significant additional or significantly different functions.

(5) NOTIFICATION AND QUARTERLY REPORTS REGARDING UNITED STATES ASSISTANCE.—

(A) NOTIFICATION OF CERTAIN ASSISTANCE.—

(i) IN GENERAL.—The President shall notify the designated congressional committees at least 15 days before the United States provides any assistance to the United Nations to support peacekeeping operations.

(ii) EXCEPTION.—This subparagraph does not apply to—

(I) assistance having a value of less than $3,000,000 in the case of nonreimbursable assistance or less than $14,000,000 in the case of reimbursable assistance; or

(II) assistance provided under the emergency drawdown authority of sections 506(a)(1) and 552(c)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2318(a)(1) and 2348a(c)(2)).

(B)[16] ANNUAL REPORT.—The President shall submit an annual report to the designated congressional committees on all assistance provided by the United States during the preceding calendar year to the United Nations to support peacekeeping operations. Each such report shall describe the assistance provide for each such operation, listed by category of assistance.

(e)[17] DESIGNATED CONGRESSIONAL COMMITTEES.—In this section, the term "designated congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

(f)[18] RELATIONSHIP TO OTHER NOTIFICATION REQUIREMENTS.—Nothing in this section is intended to alter or supersede any notification requirement with respect to peacekeeping operations that is established under any other provision of law.

SEC. 5.[19] (a) Notwithstanding the provisions of any other law, whenever the United States is called upon by the Security Council to apply measures which said Council has decided, pursuant to article 41 of said Chapter, are to be employed to give effect to its decisions under said Charter, the President may, to the extent necessary to apply such measures, through any agency which he may designate, and under such orders, rules, and regulations as may be prescribed by him, investigate, regulate, or prohibit, in whole or in part, economic relations of rail, sea, air, postal, telegraphic, radio, and other means of communication between any foreign country or any national thereof or any person therein and the United States or any person subject to the jurisdiction thereof, or involving any property subject to the jurisdiction of the United States. Any Executive order which is issued under this subsection and which applies measures against Southern Rhodesia pursuant to any United Nations Security Council Resolution may be enforced, notwithstanding the provisions of any other law.[20] The President may exempt from

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[16] Sec. 405(a)(3) of Public Law 107–228 (116 Stat. 1391) amended and restated subpara. (B), which formerly read as follows:

"(B) QUARTERLY REPORTS.—

"(i) IN GENERAL.—The President shall submit quarterly reports to the designated congressional committees on all assistance provided by the United States during the preceding calendar quarter to the United Nations to support peacekeeping operations.

"(ii) MATTERS INCLUDED.—Each report under this subparagraph shall describe the assistance provided for each such operation, listed by category of assistance.

"(iii) FOURTH QUARTER REPORT.—The report under this subparagraph for the fourth calendar quarter of each year shall be submitted as part of the annual report required by subsection (d) and shall include cumulative information for the preceding calendar year.".

[17] Sec. 724(b) of Public Law 106–113 (113 Stat. 1536) originally added this subsection as subsec. (f). Sec. 405(a)(4) of Public Law 107–228 (116 Stat. 1391) later redesignated this subsection from subsec. (f) to subsec. (e).

[18] Sec. 724(b) of Public Law 106–113 (113 Stat. 1536) originally added this subsection as subsec. (g). Sec. 405(a)(4) of Public Law 107–228 (116 Stat. 1391) later redesignated this subsection from subsec. (g) to subsec. (f).

[19] 22 U.S.C. 287c.

[20] The President issued Executive Order 11978 (42 F.R. 15403; March 22, 1997) on March 18, 1977, applying measures against Southern Rhodesia via amendment of Executive Order 11419. Sec. 27 of the International Security Assistance Act of 1978 (Public Law 95–384; 92 Stat. 746), repealed in 1981, specified that the United States would not enforce sanctions against Rhodesia after December 31, 1978, provided that the President made certain determinations regarding the political situation in Rhodesia (see *Legislation on Foreign Relations Through 2008*, vol. I–A). The policy contained in sec. 27 did not become operable because the President did not issue the necessary determinations. See also sec. 408 of the Department of State Authorization Act, Fiscal Years 1980 and 1981 (Public Law 96–60; 93 Stat. 405) (see *Legislation on Foreign Relations*

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such Executive order any shipment of chromium in any form which is in transit to the United States on the date of enactment of this sentence.[21]

(b) Any person who willfully violates or evades or attempts to violate or evade any order, rule, or regulation issued by the President pursuant to paragraph (a) of this section shall, upon conviction, be fined not more than $10,000 or, if a natural person, be imprisoned for not more than ten years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation or evasion shall be punished by a like fine, imprisonment, or both, and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, or vehicle, or aircraft,[22] concerned in such violation shall be forfeited to the United States.

(c)[23] (1) During the period in which measures are applied against Southern Rhodesia under subsection (a) pursuant to any United Nations Security Council Resolution, a shipment of any steel mill product (as such product may be defined by the Secretary) containing chromium in any form may not be released from customs custody for entry into the United States if—

(A) a certificate of origin with respect to such shipment has not been filed with the Secretary; or

(B) in the case of a shipment with respect to which a certificate of origin has been filed with the Secretary, the Secretary determines that the information contained in such certificate does not adequately establish that the steel mill product in such shipment does not contain chromium in any form which is of Southern Rhodesian origin;

unless such release is authorized by the Secretary under paragraph (3) (B) or (C).

(2) The Secretary shall prescribe regulations for carrying out this subsection.

(3)(A) In carrying out this subsection, the Secretary may issue subpenas requiring the attendance and testimony of witnesses and the production of evidence. Any such subpena, may, upon application by the Secretary, be enforced in a civil action in an appropriate United States district court.

(B) The Secretary may exempt from the certification requirements of this subsection any shipment of a steel mill product containing chromium in any form which is in transit to the United States on the date of enactment of this subsection.

(C) Under such circumstances as he deems appropriate, the Secretary may release from customs custody for entry into the United

*Through 2008*, vol. II–A) which contained several congressional findings regarding the Zimbabwe-Rhodesia situation and instructed the President to terminate sanctions against Zimbabwe-Rhodesia by November 15, 1979, unless he determined that it would not be in the national interest of the United States to do so. On November 14, 1979, President Carter issued Determination No. 80–44 (44 F.R. 67073; November 23, 1979) making a finding that it was not in the interest of the United States to terminate the sanctions. However, on December 16, 1979, the President issued Executive Order 12183 (44 F.R. 74787; December 18, 1979) which revoked all sanctions against Zimbabwe-Rhodesia. Such Executive Order also revoked Executive Orders 11322, 11419, and 11978.

[21] Public Law 95–12 (91 Stat. 22) added the final two sentences of subsec. (a).

[22] Sec. 3 of Public Law 81–341 (63 Stat. 735) inserted "or aircraft,".

[23] Public Law 95–12 (91 Stat. 22) added subsec. (c).

States, under such bond as he may require, any shipment of a steel mill product containing chromium in any form.

(4) As used in this subsection—

(A) the term "certificate of origin" means such certificate as the Secretary may require, with respect to a shipment of any steel mill product containing chromium in any form, issued by the government (or by a designee of such government if the Secretary is satisfied that such designee is the highest available certifying authority) of the country in which such steel mill product was produced certifying that the steel mill product in such shipment contains no chromium in any form which is of Southern Rhodesian origin; and

(B) the term "Secretary" means the Secretary of the Treasury.

SEC. 6.[24] The President is authorized to negotiate a special agreement or agreements with the Security Council which shall be subject to the approval of the Congress by appropriate Act or joint resolution, providing for the numbers and types of armed forces, their degree of readiness and general locations, and the nature of facilities and assistance, including rights of passage, to be made available to the Security Council on its call for the purpose of maintaining international peace and security in accordance with article 43 of said Charter. The President shall not be deemed to require the authorization of the Congress to make available to the Security Council on its call in order to take action under article 42 of said Charter and pursuant to such special agreement or agreements the Armed Forces, facilities, or assistance provided for therein: *Provided,* That, except as authorized in section 7 of this Act,[25] nothing herein contained shall be construed as an authorization to the President by the Congress to make available to the Security Council for such purpose armed forces, facilities, or assistance in addition to the forces, facilities, and assistance provided for in such special agreement or agreements.

SEC. 7.[26] (a) Notwithstanding the provisions of any other law, the President, upon the request by the United Nations for cooperative action, and to the extent that he finds that it is consistent with the national interest to comply with such request, may authorize, in support of such activities of the United Nations as are specifically directed to the peaceful settlement of disputes and not involving the employment of armed forces contemplated by chapter VII of the United Nations Charter—

(1) the detail to the United Nations, under such terms and conditions as the President shall determine, of personnel of the armed forces of the United States to serve as observers, guards, or in any noncombatant capacity, but in no event shall more than a total of one thousand of such personnel be so detailed at any one time: *Provided,* That while so detailed, such personnel shall be considered for all purposes as acting in the

[24] 22 U.S.C. 287d.

[25] Sec. 4 of Public Law 81–341 (63 Stat. 735) added "except as authorized in section 7 of this Act".

[26] 22 U.S.C. 287d–1. Sec. 5 of Public Law 81–341 (63 Stat. 735) added this section.

line of duty, including the receipt of pay and allowances as personnel of the armed forces of the United States, credit for longevity and retirement, and all other perquisites appertaining to such duty: *Provided further,* That upon authorization or approval by the President, such personnel may accept directly from the United Nations (a) any or all of the allowances or perquisites to which they are entitled under the first proviso hereof, and (b) extraordinary expenses and perquisites incident to such detail;

(2) the furnishing of facilities, services, or other assistance and the loan of the agreed fair share of the United States of any supplies and equipment to the United Nations by the National Military Establishment,[27] under such terms and conditions as the President shall determine;

(3) the obligation, insofar as necessary to carry out the purposes of clauses (1) and (2) of this subsection, of any funds appropriated to the National Military Establishment[27] or any department therein, the procurement of such personnel, supplies, equipment, facilities, services, or other assistance as may be made available in accordance with the request of the United Nations, and the replacement of such items, when necessary, where they are furnished from stocks.

(b) Whenever personnel or assistance is made available pursuant to the authority contained in subsection (a) (1) and (2) of this section, the President shall require reimbursement from the United Nations for the expense thereby incurred by the United States: *Provided,* That in exceptional circumstances, or when the President finds it to be in the national interest, he may waive, in whole or in part, the requirement of such reimbursement: *Provided further,* That when any such reimbursement is made, it shall be credited, at the option of the appropriate department of the National Military Establishment,[27] either to the appropriation, fund, or account utilized in incurring the obligation, or to an appropriate appropriation, fund, or account currently available for the purposes for which expenditures were made.

(c) In addition to the authorization of appropriations to the Department of State contained in section 8 of this Act, there is hereby authorized to be appropriated to the National Military Establishment,[27] or any department therein, such sums as may be necessary to reimburse such departments in the event that reimbursement from the United Nations is waived in whole or in part pursuant to authority contained in subsection (b) of this section.

(d) Nothing in this Act shall authorize the disclosure of any information or knowledge in any case in which such disclosure is prohibited by any other law of the United States.

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[27] Sec. 201 of the National Security Act of 1947 created the "National Military Establishment", of which the Secretary of Defense was the head. Sec. 12(a) of Public Law 81–216 (63 Stat. 591) made amendments to the National Security Act of 1947 (Public Law 80–253; 61 Stat. 495), by striking out "National Military Establishment" and inserting in lieu thereof "Department of Defense" wherever it appeared in the Act. Other legislation containing unchanged references to the former National Military Establishment may be considered to refer instead to the Department of Defense.

SEC. 8.[28] There is hereby authorized to be appropriated annually to the Department of State, out of any money in the treasury not otherwise appropriated, such sums as may be necessary for the payment by the United States of its share of the expenses of the United Nations as apportioned by the General Assembly in accordance with article 17 of the Charter, and for all necessary salaries and expenses of the representatives provided for in section 2 hereof, and of their appropriate staffs, including personal services in the District of Columbia and elsewhere, without regard to the civil-service laws and the Classification Act of 1923, as amended;[29] travel expenses without regard to the Standardized Government Travel Regulations, as amended, the Travel Expense Act of 1949,[30] and section 10 of the Act of March 3, 1933, as amended,[31] and, under such rules and regulations as the Secretary of State may prescribe, travel expenses of families and transportation of effects of United States representatives and other personnel in going to and returning from their post of duty; allowances for living quarters, including heat, fuel, and light, as authorized by the Act approved June 26, 1930 (5 U.S.C. 118a);[32] cost-of-living allowances for personnel stationed abroad under such rules and regulations as the Secretary of State may prescribe; communications services; stenographic reporting, translating, and other services, by contract; hire of passenger motor vehicles and other local transportation; rent of offices; printing and binding without regard to section 11 of the Act of March 1, 1949 (44 U.S.C. 111); allowances and expenses as provided in section 6 of the Act of July 30, 1946 (Public Law 565, Seventy-ninth Congress),[33] and allowances and expenses equivalent to those provided in section 905 of the Foreign Service

[28] 22 U.S.C. 287e. Sec. 6 of Public Law 81–341 (63 Stat. 736) redesignated this section from sec. 7 to sec. 8.

Sec. 113(e) of Public Law 107–228 (116 Stat. 1359), provided the following:

"(e) REFUND OF EXCESS CONTRIBUTIONS.—The United States shall continue to insist that the United Nations and its specialized and affiliated agencies shall credit or refund to each member of the organization or agency concerned its proportionate share of the amount by which the total contributions to the organization or agency exceed the expenditures of the regular assessed budget of the organization or agency.".

Sec. 404 of the Department of State and Related Agency Appropriations Act, 2002 (Public Law 107–77; 115 Stat. 789), provided the following:

"SEC. 404. Hereafter, none of the funds appropriated or otherwise made available for the United Nations may be used by the United Nations for the promulgation or enforcement of any treaty, resolution, or regulation authorizing the United Nations, or any of its specialized agencies or affiliated organizations, to tax any aspect of the Internet or international currency transactions.".

Sec. 410 of the Foreign Assistance Act of 1971 (Public Law 92–226), approved February 7, 1972, provided as follows:

"The Congress strongly urges the President to undertake such negotiations as may be necessary to implement that portion of the recommendations of the Report of the President's Commission for the Observance of the Twenty-fifth Anniversary of the United Nations (known as the "Lodge Commission") which proposes that the portion of the regular assessed costs to be paid by the United States to the United Nations be reduced so that the United States is assessed in each year not more than 25 per centum of such costs assessed all members of the United Nations for that year.".

See also title IV, part A of Public Law 103–236 (108 Stat. 445). See also division A, title IV of Public Law 107–228 (116 Stat. 1387). See also sec. 411 of the Department of State and Related Agency Appropriations Act, 2005 (title IV of division B of Public Law 108–447; 118 Stat. 2905) relating to the application of Public Law 103–236 for fiscal year 2005.

[29] The Classification Act of 1923, as amended, is now the Classification Act of 1949, as amended (5 U.S.C. 305, 5101–5113, 5115, 5331–5338, 5341, 5342, 5509, 7154).

[30] 5 U.S.C. 5701, 5702, 5704–5708.

[31] 15 U.S.C. 5731.

[32] Now at 5 U.S.C. 5912, as amended.

[33] Sec. 6 of the Act of July 30, 1946, as amended (22 U.S.C. 287r).

Act of 1980,[34] the lease or rental (for periods not exceeding ten years) of living quarters for the use of the representatives provided for in section 2 of this Act serving abroad[35] and of their appropriate staffs,[36] the cost of installation and use of telephones in the same manner as telephone service is provided for use of the Foreign Service pursuant to the Act of August 23, 1912, as amended (31 U.S.C. 679), and[37] unusual expenses similar to those authorized by section 22 of the Administrative Expenses Act of 1946, as amended[38] by section 311 of the Overseas Differentials and Allowances Act, incident to the operation and maintenance of such living quarters abroad;[39] and such other expenses as may be authorized by the Secretary of State; and without regard to section 3709 of the Revised Statutes as amended (41 U.S.C. 5).[40]

SEC. 9.[41] The Secretary of State may, under such regulations as he shall prescribe, and notwithstanding section 3648 of the Revised Statutes (31 U.S.C. 529) and section 5536 of title 5, United States Code:

(1)[41] Make available to the Representative of the United States to the United Nations and the Deputy Permanent Representative of the United States to the United Nations living

[34] Sec. 2206(a)(2) of Public Law 96–465 (94 Stat. 2160) added the reference to sec. 905 of the Foreign Service Act of 1980, effective February 15, 1981. This replaced a reference to sec. 901(3) of the Foreign Service Act of 1946.

[35] Sec. 304(a)(1) of Public Law 100–459 (102 Stat. 2207) added "serving abroad" at this point.

[36] Sec. 119(1) of Public Law 97–241 (96 Stat. 280), struck out "representative of the United States to the United Nations referred to in paragraph (a) of section 2 hereof" and inserted in lieu thereof "representatives provided for in section 2 of this Act and of their appropriate staffs".

[37] Sec. 311(b) of Public Law 86–707 substituted the phrase "and unusual expenses * * *" for the previous clause.

[38] Public Law 89–554 (80 Stat. 510) codified sec. 22 of the Administrative Expenses Act of 1946, as amended, at 5 U.S.C. 5913.

[39] Sec. 304(a)(2) of Public Law 100–459 (102 Stat. 2207) inserted "abroad".

[40] Sec. 304(a)(3) of Public Law 100–459 (102 Stat. 2207) struck out the last sentence of sec. 8, which sec. 119(2) of Public Law 97–273 (96 Stat. 280) had originally added. It formerly read as follows:

"Any payments made by United States Government personnel for occupancy by them of living quarters leased or rented under this section shall be credited to the appropriation, fund, or account utilized by the Secretary of State for such lease or rental or to the appropriation, fund, or account currently available for such purpose.".

[41] 22 U.S.C. 287e–1. Sec. 15 of Public Law 93–126 (87 Stat. 454), originally added sec. 9. Sec. 304(b) of Public Law 100–459 (102 Stat. 2207) substantially amended and restated sec. 15. Sec. 304(b) of that Act redesignated para. (2) as para. (3). It also struck out "President" in that paragraph and inserted in lieu thereof "Secretary". Finally, it added new paras. (1), (2), and (4). Sec. 304(c)(1) provided an effective date of July 1, 1989, for these amendments. Sec. 9 formerly read as follows:

"SEC. 9. The President may, under such regulations as he shall prescribe, and notwithstanding section 3648 of the Revised Statutes (31 U.S.C. 529) and section 5536 of title 5, United States Code—

"(1) grant any employee of the staff of the United States Mission to the United Nations designated by the Secretary of State, and any employee of the United States Information Agency designated by the Director of that Agency, who is required because of important representational responsibilities to live in the extraordinarily high-rent area immediately surrounding the headquarters of the United Nations in New York, New York, an allowance to compensate for the portion of expenses necessarily incurred by the employee for quarters and utilities which exceed the average of such expenses incurred by typical, permanent residents of the Metropolitan New York, New York, area with comparable salary and family size who are not compelled by reason of their employment to live in such high-rent area; and

"(2) provide such allowance as the President considers appropriate, to each Delegate and Alternate Delegate of the United States to any session of the General Assembly of the United Nations who is not a permanent member of the staff of the United States Mission to the United Nations, in order to compensate each such Delegate or Alternate Delegate for necessary housing and subsistence expenses incurred by him with respect to attending any such session.

"Not more than fifty employees, including not more than five employees of the United States Information Agency, shall be receiving an allowance under paragraph (1) of this section at any one time.".

quarters leased or rented by the United States (for periods not exceeding ten years) and allowances for unusual expenses incident to the operation and maintenance of such living quarters similar to those and to be considered for all purposes as authorized by section 22 of the Administrative Expenses Act of 1946, as amended by section 311 of the Overseas Differentials and Allowances Act.

(2)[41,42] Make available in New York to no more than 30[43] foreign service employees of the staff of the United States Mission to the United Nations, other representatives, and no more than two employees who serve at the pleasure of the Representative, living quarters leased or rented by the United States (for periods not exceeding ten years). The number of employees to which such quarters will be made available shall be determined by the Secretary and shall reflect a significant reduction over the number of persons eligible for housing benefits as of the date of enactment of this provision. No employee may occupy a unit under this provision if the unit is owned by the employee. The Secretary shall require that each employee occupying housing under this subsection contribute to the Department of State a percentage of his or her base salary, in an amount to be determined by the Secretary of State toward the cost of such housing. The Secretary may reduce such payments to the extent of income taxes paid on the value of the leased or rented quarters any payments made by employees to the Department of State for occupancy by them of living quarters leased or rented under this section shall be credited to the appropriation, fund, or account utilized by the Secretary of State for such lease or rental or to the appropriation, fund, or account currently available for such purpose.

(3)[41] provide such allowance as the Secretary[41] considers appropriate, to each Delegate and Alternate Delegate of the United States to any session of the General Assembly of the United Nations who is not a permanent member of the staff of the United States Mission to the United Nations, in order to compensate each such Delegate or Alternate Delegate for necessary housing and subsistence expenses incurred by him with respect to attending any such session.

(4)[41] The Inspector General shall review the program established by this section no later than December 1989 and periodically thereafter with a view to increasing cost savings and making other appropriate recommendations.

**SEC. 10.[44] REIMBURSEMENT FOR GOODS AND SERVICES PROVIDED BY THE UNITED STATES TO THE UNITED NATIONS.**

(a) REQUIREMENT TO OBTAIN REIMBURSEMENT.—

[42] Sec. 304(c) of Public Law 100–459 (102 Stat. 2208) provided:

"(2) In the event that taxes paid by an employee on the benefit provided under subsection (2) of section 9 exceed the contribution amount computed as a percentage of base salary under that subsection, the Department of State may reimburse the employee up to the amount of such differential for the period from the date of enactment of this Act through July 1, 1989.".

[43] Sec. 405 of Public Law 106–309 (114 Stat. 1098) struck out "18" and inserted in lieu thereof "30".

[44] 22 U.S.C. 287e–2. Sec. 723 of Public Law 106–113 (113 Stat. 1536) added this section.

(1) IN GENERAL.—Except as provided in paragraph (2), the President shall seek and obtain in a timely fashion a commitment from the United Nations to provide reimbursement to the United States from the United Nations whenever the United States Government furnishes assistance pursuant to the provisions of law described in subsection (c)—

(A) to the United Nations when the assistance is designed to facilitate or assist in carrying out an assessed peacekeeping operation;

(B) for any United Nations peacekeeping operation that is authorized by the United Nations Security Council under Chapter VI or Chapter VII of the United Nations Charter and paid for by peacekeeping or regular budget assessment of the United Nations members; or

(C) to any country participating in any operation authorized by the United Nations Security Council under Chapter VI or Chapter VII of the United Nations Charter and paid for by peacekeeping assessments of United Nations members when the assistance is designed to facilitate or assist the participation of that country in the operation.

(2) EXCEPTIONS.—

(A) IN GENERAL.—The requirement in paragraph (1) shall not apply to—

(i) goods and services provided to the United States Armed Forces;

(ii) assistance having a value of less than $3,000,000 per fiscal year per operation;

(iii) assistance furnished before the date of enactment of this section;

(iv) salaries and expenses of civilian police and other civilian and military monitors where United Nations policy is to require payment by contributing members for similar assistance to United Nations peacekeeping operations; or

(v) any assistance commitment made before the date of enactment of this section.

(B) DEPLOYMENTS OF UNITED STATES MILITARY FORCES.—The requirements of subsection (d)(1)(B) shall not apply to the deployment of United States military forces when the President determines that such deployment is important to the security interests of the United States. The cost of such deployment shall be included in the data provided under section 554 of the Foreign Assistance Act of 1961.

(3) FORM AND AMOUNT.—

(A) AMOUNT.—The amount of any reimbursement under this subsection shall be determined at the usual rate established by the United Nations.

(B) FORM.—Reimbursement under this subsection may include credits against the United States assessed contributions for United Nations peacekeeping operations, if the expenses incurred by any United States department or agency providing the assistance have first been reimbursed.

(b) TREATMENT OF REIMBURSEMENTS.—

(1) CREDIT.—The amount of any reimbursement paid the United States under subsection (a) shall be credited to the current applicable appropriation, fund, or account of the United States department or agency providing the assistance for which the reimbursement is paid.

(2) AVAILABILITY.—Amounts credited under paragraph (1) shall be merged with the appropriations, or with appropriations in the fund or account, to which credited and shall be available for the same purposes, and subject to the same conditions and limitations, as the appropriations with which merged.

(c) COVERED ASSISTANCE.—Subsection (a) applies to assistance provided under the following provisions of law:

(1) Sections 6 and 7 of this Act.

(2) Sections 451, 506(a)(1), 516, 552(c), and 607 of the Foreign Assistance Act of 1961.

(3) Any other provisions of law pursuant to which assistance is provided by the United States to carry out the mandate of an assessed United Nations peacekeeping operation.

(d) WAIVER.—

(1)[45] AUTHORITY.—

(A) IN GENERAL.—The President may authorize the furnishing of assistance covered by this section without regard to subsection (a) if the President determines, and so notifies in writing the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives, that to do so is important to the security interests of the United States.

(B) CONGRESSIONAL NOTIFICATION.—When exercising the authorities of subparagraph (A), the President shall notify the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

(2) CONGRESSIONAL REVIEW.—Notwithstanding a notice under paragraph (1) with respect to assistance covered by this section, subsection (a) shall apply to the furnishing of the assistance if, not later than 15 calendar days after receipt of a notification under that paragraph, the Congress enacts a joint resolution disapproving the determination of the President contained in the notification.

(3) SENATE PROCEDURES.—Any joint resolution described in paragraph (2) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

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[45] In Presidential Determination 2000–12 of February 10, 2000 (65 F.R. 8243; February 18, 2000), President Clinton authorized the Secretary of State to provide assistance to East Timor's transition to independence under this paragraph and subsec. (a)(2)(B) of this section. In Presidential Determination 2000–20 of May 31, 2000 (65 F.R. 36307; June 8, 2000), President Clinton authorized the Secretary of State to provide assistance to support peacekeeping in Sierra Leone under this paragraph. In Presidential Determination 2008–7 of December 14, 2007 (73 F.R. 3851; January 22, 2008), President George W. Bush authorized the Secretary of State to provide assistance to support the United Nations/African Union Mission in Darfur (UNAMID) under this paragraph.

(e) RELATIONSHIP TO OTHER REIMBURSEMENT AUTHORITY.—Nothing in this section shall preclude the President from seeking reimbursement for assistance covered by this section that is in addition to the reimbursement sought for the assistance under subsection (a).

(f) DEFINITION.—In this section, the term "assistance" includes personnel, services, supplies, equipment, facilities, and other assistance if such assistance is provided by the Department of Defense or any other United States Government agency.

**SEC. 11.[46] LIMITATION ON THE UNITED STATES SHARE OF ASSESSMENTS FOR UNITED NATIONS REGULAR BUDGET.**

None of the funds available to the Department of State shall be used to pay the United States share of assessed contributions for the regular budget of the United Nations in an amount greater than 22 percent of the total of all assessed contributions for that budget.

[46] 22 U.S.C. 287e–3. Sec. 403 of Public Law 107–228 (116 Stat. 1389) added this section.

## 2. Department of State Authorization Act, Fiscal Year 2003

**Partial text of division A of Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002**

AN ACT To authorize appropriations for the Department of State for fiscal year 2003, to authorize appropriations under the Arms Export Control Act and the Foreign Assistance Act of 1961 for security assistance for fiscal year 2003, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Foreign Relations Authorization Act, Fiscal Year 2003".

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## DIVISION A—DEPARTMENT OF STATE AUTHORIZATION ACT, FISCAL YEAR 2003

**SEC. 101. SHORT TITLE.**

This division may be cited as the "Department of State Authorization Act, Fiscal Year 2003".

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## TITLE IV—INTERNATIONAL ORGANIZATIONS

**SEC. 401. PAYMENT OF THIRD INSTALLMENT OF ARREARAGES.**

(a) IN GENERAL.—The United Nations Reform Act of 1999 (title IX of division A of H.R. 3427, as enacted into law by section 1000(a)(7) of Public Law 106–113; appendix G; 113 Stat. 1501A–475) is amended * * *

(b) CONFORMING AMENDMENT.—The undesignated paragraph under the heading "ARREARAGE PAYMENTS" in title IV of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2000 (as contained in section 1000 of division B of the Consolidated Appropriations Act, 2000; Public Law 106–113) is amended—* * *

(c) TRANSMITTAL OF CERTIFICATIONS TO CONGRESS.—Section 912(c) of the United Nations Reform Act of 1999 (title IX of division A of H.R. 3427, as enacted into law by section 1000(a)(7) of Public Law 106–113; appendix G; 113 Stat. 1501A–477) is amended * * *

**SEC. 402. LIMITATION ON THE UNITED STATES SHARE OF ASSESSMENTS FOR UNITED NATIONS PEACEKEEPING OPERATIONS IN CALENDAR YEARS 2001 THROUGH 2004.**

(a) IN GENERAL.—Section 404(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 287e note) is amended—* * *

(b) CONFORMING AMENDMENTS TO PUBLIC LAW 92–544.—Title I of the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (22 U.S.C. 287e note) is amended— * * *

**SEC. 403. LIMITATION ON THE UNITED STATES SHARE OF ASSESSMENTS FOR UNITED NATIONS REGULAR BUDGET.**

The United Nations Participation Act of 1945 (22 U.S.C. 287 et seq.) is amended * * *

**SEC. 404. PROMOTION OF SOUND FINANCIAL PRACTICES BY THE UNITED NATIONS.**

(a) FINDINGS.—Congress makes the following findings:

(1) In the early 1980s, the United States Government began to pay United States assessments to certain international organizations in the last quarter of the calendar year in which they were due. This practice allowed the United States to pay its annual assessment to the United Nations and other international organizations with the next fiscal year's appropriations, taking advantage of the fact that international organizations operate on calendar years. It also allowed the United States to reduce budgetary outlays, making the United States budget deficit appear smaller.

(2) The United States, which is assessed 22 percent of the United Nations regular budget, now pays its dues at least 10 months late, and often later depending on when the relevant appropriation is enacted.

(3) This practice causes the United Nations to operate throughout much of the year without a significant portion of its operating budget. By midyear, the budget is usually depleted, forcing the United Nations to borrow from its separate peacekeeping budget (the organization is prohibited from external borrowing). As a result, countries that contribute to United Nations peacekeeping missions are not reimbursed on a timely basis.

(4) For years, the United States has been encouraging the United Nations and other international organizations to engage in sound, fiscally responsible budgetary practices. In fact, many of the conditions in United States law for paying nearly $1,000,000,000 in debt to the United Nations and other international organizations are aimed at this goal. But late payment of United States dues forces the United Nations and other international organizations to engage in budgetary practices that are neither sound nor responsible.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should initiate a process to synchronize the payment of its assessments to the United Nations and other international organizations over a multiyear period so that the United States can resume paying its dues to such international organizations at the beginning of each calendar year.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts otherwise available for the purpose of payment of the United States assessed contributions to the United Nations and other international organizations, there are authorized to be appropriated such sums

as may be necessary to carry out the policy described in subsection (b).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

**SEC. 405. REPORTS TO CONGRESS ON UNITED NATIONS ACTIVITIES.**

(a) AMENDMENTS TO UNITED NATIONS PARTICIPATION ACT.—Section 4 of the United Nations Participation Act (22 U.S.C. 287b) is amended—* * *

(b) CONFORMING AMENDMENTS.—

(1) Section 2 of Public Law 81–806 (22 U.S.C. 262a) is amended * * *

(2) Section 409 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 287e note), is amended * * *

**SEC. 406. USE OF SECRET BALLOTS WITHIN THE UNITED NATIONS.**

Not later than 120 days after the date of enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees containing a detailed analysis, and a determination based on such analysis, on whether the use of secret ballots within the United Nations and the specialized agencies of the United Nations serves the interests of the United States.

**SEC. 407. SENSE OF CONGRESS RELATING TO MEMBERSHIP OF THE UNITED STATES IN UNESCO.**

It is the sense of Congress that the President, having announced that the United States will rejoin the United Nations Educational, Scientific, and Cultural Organization (UNESCO), should submit a report to the appropriate congressional committees—

(1) describing the merits of renewing the membership and participation of the United States in UNESCO; and

(2) detailing the projected costs of United States membership in UNESCO.

**SEC. 408.[1] UNITED STATES MEMBERSHIP ON THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS AND INTERNATIONAL NARCOTICS CONTROL BOARD.**

The United States, in connection with its voice and vote in the United Nations General Assembly and the United Nations Economic and Social Council, shall make every reasonable effort—

(1) to secure a seat for the United States on the United Nations Commission on Human Rights;

(2) to secure a seat for a United States national on the United Nations International Narcotics Control Board; and

(3) to prevent membership on the Human Rights Commission by any member nation the government of which, in the judgment of the Secretary, based on the Department's Annual Country Reports on Human Rights and the Annual Report on International Report on Religious Freedom, consistently violates internationally recognized human rights or has engaged in or tolerated particularly severe violations of religious freedom in that country.

[1] 22 U.S.C. 287 note.

**SEC. 409. PLAN FOR ENHANCED DEPARTMENT OF STATE EFFORTS TO PLACE UNITED STATES CITIZENS IN POSITIONS OF EMPLOYMENT IN THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES.**

Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report containing a plan that provides for—

(1) proposals to reverse the decline in recent years in funding and personnel resources devoted to the placement of United States citizens in positions within the United Nations system;

(2) steps to intensify coordinated, high-level diplomatic efforts to place United States citizens in senior posts in the United Nations Secretariat and the specialized agencies of the United Nations; and

(3) appropriate mechanisms to address the underrepresentation, relative to the United States share of assessed contributions to the United Nations, of United States citizens in junior positions within the United Nations and its specialized agencies.

* * * * * * *

## 3. United Nations Reform Act of 1999

**Partial text of Public Law 106–113 [H.R. 3427, enacted by reference in the Consolidated Appropriations Act, 2000; H.R. 3194], 113 Stat. 1501, approved November 29, 1999; as amended by Public Law 107–46 [S. 248], 115 Stat. 259, approved October 5, 2001; and Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002**

AN ACT To authorize appropriations for the Department of State for fiscal years 2000 and 2001; to provide for enhanced security at United States diplomatic facilities; to provide for certain arms control, nonproliferation, and other national security measures; to provide for reform in the United Nations; and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001".

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## TITLE IX—ARREARS PAYMENTS AND REFORM

### Subtitle A—General Provisions

**SEC. 901. SHORT TITLE.**

This title may be cited as the "United Nations Reform Act of 1999".

**SEC. 902. DEFINITIONS.**

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

(2) DESIGNATED SPECIALIZED AGENCY DEFINED.—The term "designated specialized agency" means the International Labor Organization, the World Health Organization, and the Food and Agriculture Organization.

(3) GENERAL ASSEMBLY.—The term "General Assembly" means the General Assembly of the United Nations.

(4) SECRETARY GENERAL.—The term "Secretary General" means the Secretary General of the United Nations.

(5) SECURITY COUNCIL.—The term "Security Council" means the Security Council of the United Nations.

(6) UNITED NATIONS MEMBER.—The term "United Nations member" means any country that is a member of the United Nations.

(7) UNITED NATIONS PEACEKEEPING OPERATION.—The term "United Nations peacekeeping operation" means any United Nations-led operation to maintain or restore international peace or security that—

(A) is authorized by the Security Council; and

(B) is paid for from assessed contributions of United Nations members that are made available for peacekeeping activities.

## Subtitle B—Arrearages to the United Nations

## CHAPTER 1—AUTHORIZATION OF APPROPRIATIONS; OBLIGATION AND EXPENDITURE OF FUNDS

### SEC. 911. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—

(1) FISCAL YEAR 1998.—

(A) REGULAR ASSESSMENTS.—Amounts appropriated by title IV of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119), under the heading "Contributions to International Organizations", are hereby authorized to be appropriated and shall be available for obligation and expenditure subject to the provisions of this title.

(B) PEACEKEEPING ASSESSMENTS.—Amounts appropriated by title IV of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119), under the heading "Contributions for International Peacekeeping Activities", are hereby authorized to be appropriated and shall be available for obligation and expenditure subject to the provisions of this title.

(2) FISCAL YEAR 1999.—Amounts appropriated under the heading "Arrearage Payments" in title IV of the Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999 (as contained in section 101(b) of division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105–277), are hereby authorized to be appropriated and shall be available for obligation and expenditure subject to the provisions of this title.

(3) FISCAL YEAR 2000.—There are authorized to be appropriated to the Department of State for payment of arrearages owed by the United States described in subsection (b) as of September 30, 1997, $244,000,000 for fiscal year 2000. Amounts appropriated pursuant to this paragraph shall be available for obligation and expenditure subject to the provisions of this title.

(b) LIMITATION.—Amounts made available under subsection (a) are authorized to be available only—

(1) to pay the United States share of assessments for the regular budget of the United Nations;

(2) to pay the United States share of United Nations peacekeeping operations;

(3) to pay the United States share of United Nations specialized agencies; and

(4) to pay the United States share of other international organizations.

(c) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

(d) STATUTORY CONSTRUCTION.—For purposes of payments made using funds made available under subsection (a), section 404(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) shall not apply to United Nations peacekeeping operation assessments received by the United States prior to October 1, 1995.

**SEC. 912. OBLIGATION AND EXPENDITURE OF FUNDS.**

(a) IN GENERAL.—Funds made available pursuant to section 911 may be obligated and expended only if the requirements of subsections (b) and (c) of this section are satisfied.

(b) OBLIGATION AND EXPENDITURE UPON SATISFACTION OF CERTIFICATION REQUIREMENTS.—Subject to subsections (e) and (f), funds made available pursuant to section 911 may be obligated and expended only in the following allotments and upon the following certifications:

(1) Amounts made available for fiscal year 1998, upon the certification described in section 921.

(2) Amounts made available for fiscal year 1999, upon the certification described in section 931.

(3) Amounts authorized to be appropriated for fiscal year 2000 upon a certification described in section 941 with respect to the United Nations or a particular designated specialized agency, and immediately with respect to organizations to which none of the conditions in section 941(b) apply.[1]

(c) ADVANCE CONGRESSIONAL NOTIFICATION.—Funds made available pursuant to section 911 may be obligated and expended only if the appropriate certification has been submitted to the appropriate congressional committees 15 days prior to payment of the funds, in the case of a certification submitted with respect to funds made available for fiscal year 2000.[2]

(d) TRANSMITTAL OF CERTIFICATIONS.—Certifications made under this chapter shall be transmitted by the Secretary of State to the appropriate congressional committees.

(e) WAIVER AUTHORITY WITH RESPECT TO FISCAL YEAR 1999 FUNDS.—

(1) IN GENERAL.—Subject to paragraph (3) and notwithstanding subsection (b), funds made available under section

[1] Sec. 401(a)(1) of the Department of State Authorization Act, Fiscal Year 2003 (division A of the Foreign Relations Authorization Act, Fiscal Year 2003; Public Law 107–228; 116 Stat. 1387) struck out ", upon the certification described in section 941" and inserted in lieu thereof "upon a certification described in section 941 with respect to the United Nations or a particular designated specialized agency, and immediately with respect to organizations to which none of the conditions in section 941(b) apply".

[2] Sec. 401(c) of Public Law 107–228 (116 Stat. 1388) amended and restated subsec. (c). The former subsec. (c) read as follows:

"(c) ADVANCE CONGRESSIONAL NOTIFICATION.—Funds made available pursuant to section 911 may be obligated and expended only if the appropriate certification has been submitted to the appropriate congressional committees 30 days prior to the payment of the funds.".

911 for fiscal year 1999 may be obligated or expended pursuant to subsection (b)(2) even if the Secretary of State cannot certify that the condition described in section 931(b)(1) has been satisfied.

(2) REQUIREMENTS.—

(A) IN GENERAL.—The authority to waive the condition described in paragraph (1) of this subsection may be exercised only if the Secretary of State—

(i) determines that substantial progress towards satisfying the condition has been made and that the expenditure of funds pursuant to that paragraph is important to the interests of the United States; and

(ii) has notified, and consulted with, the appropriate congressional committees prior to exercising the authority.

(B) EFFECT ON SUBSEQUENT CERTIFICATION.—If the Secretary of State exercises the authority of paragraph (1), the condition described in that paragraph shall be deemed to have been satisfied for purposes of making any certification under section 941.

(3) ADDITIONAL REQUIREMENT.—If the authority to waive a condition under paragraph (1)(A) is exercised, the Secretary of State shall notify the United Nations that the Congress does not consider the United States obligated to pay, and does not intend to pay, arrearages that have not been included in the contested arrearages account or other mechanism described in section 931(b)(1).

(f) WAIVER AUTHORITY WITH RESPECT TO FISCAL YEAR 2000 FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding subsection (b), funds made available under section 911 for fiscal year 2000 may be obligated or expended pursuant to subsection (b)(3) even if the Secretary of State cannot certify that the condition described in paragraph (1) of section 941(b) has been satisfied.

(2) REQUIREMENTS.—

(A) IN GENERAL.—The authority to waive a condition under paragraph (1) may be exercised only if the Secretary of State has notified, and consulted with, the appropriate congressional committees prior to exercising the authority.

(B) EFFECT ON SUBSEQUENT CERTIFICATION.—If the Secretary of State exercises the authority of paragraph (1) with respect to a condition, such condition shall be deemed to have been satisfied for purposes of making any certification under section 941.

**SEC. 913. FORGIVENESS OF AMOUNTS OWED BY THE UNITED NATIONS TO THE UNITED STATES.**

(a) FORGIVENESS OF INDEBTEDNESS.—Subject to subsection (b), the President is authorized to forgive or reduce any amount owed by the United Nations to the United States as a reimbursement, including any reimbursement payable under the Foreign Assistance Act of 1961 or the United Nations Participation Act of 1945.

(b) LIMITATIONS.—

(1) TOTAL AMOUNT.—The total of amounts forgiven or reduced under subsection (a) may not exceed $107,000,000.

(2) RELATION TO UNITED STATES ARREARAGES.—Amounts shall be forgiven or reduced under this section only to the same extent as the United Nations forgives or reduces amounts owed by the United States to the United Nations as of September 30, 1997.

(c) REQUIREMENTS.—The authority in subsection (a) shall be available only to the extent and in the amounts provided in advance in appropriations Acts.

(d) CONGRESSIONAL NOTIFICATION.—Before exercising any authority in subsection (a), the President shall notify the appropriate congressional committees in accordance with the same procedures as are applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

(e) EFFECTIVE DATE.—This section shall take effect on the date a certification is transmitted to the appropriate congressional committees under section 931.

## CHAPTER 2—UNITED STATES SOVEREIGNTY

**SEC. 921. CERTIFICATION REQUIREMENTS.**

(a) CONTENTS ON CERTIFICATION.—A certification described in this section is a certification by the Secretary of State that the following conditions are satisfied:

(1) SUPREMACY OF THE UNITED STATES CONSTITUTION.—No action has been taken by the United Nations or any of its specialized or affiliated agencies that requires the United States to violate the United States Constitution or any law of the United States.

(2) NO UNITED NATIONS SOVEREIGNTY.—Neither the United Nations nor any of its specialized or affiliated agencies—

(A) has exercised sovereignty over the United States; or

(B) has taken any steps that require the United States to cede sovereignty.

(3) NO UNITED NATIONS TAXATION.—

(A) NO LEGAL AUTHORITY.—Except as provided in subparagraph (D), neither the United Nations nor any of its specialized or affiliated agencies has the authority under United States law to impose taxes or fees on United States nationals.

(B) NO TAXES OR FEES.—Except as provided in subparagraph (D), a tax or fee has not been imposed on any United States national by the United Nations or any of its specialized or affiliated agencies.

(C) NO TAXATION PROPOSALS.—Except as provided in subparagraph (D), neither the United Nations nor any of its specialized or affiliated agencies has, on or after October 1, 1996, officially approved any formal effort to develop, advocate, or promote any proposal concerning the imposition of a tax or fee on any United States national in order to raise revenue for the United Nations or any such agency.

(D) EXCEPTION.—This paragraph does not apply to—

(i) fees for publications or other kinds of fees that are not tantamount to a tax on United States citizens;

(ii) the World Intellectual Property Organization; or

(iii) the staff assessment costs of the United Nations and its specialized or affiliated agencies.

(4) NO STANDING ARMY.—The United Nations has not, on or after October 1, 1996, budgeted any funds for, nor taken any official steps to develop, create, or establish any special agreement under Article 43 of the United Nations Charter to make available to the United Nations, on its call, the armed forces of any member of the United Nations.

(5) NO INTEREST FEES.—The United Nations has not, on or after October 1, 1996, levied interest penalties against the United States or any interest on arrearages on the annual assessment of the United States, and neither the United Nations nor its specialized agencies have, on or after October 1, 1996, amended their financial regulations or taken any other action that would permit interest penalties to be levied against the United States or otherwise charge the United States any interest on arrearages on its annual assessment.

(6) UNITED STATES REAL PROPERTY RIGHTS.—Neither the United Nations nor any of its specialized or affiliated agencies has exercised authority or control over any United States national park, wildlife preserve, monument, or real property, nor has the United Nations nor any of its specialized or affiliated agencies implemented plans, regulations, programs, or agreements that exercise control or authority over the private real property of United States citizens located in the United States without the approval of the property owner.

(7) TERMINATION OF BORROWING AUTHORITY.—

(A) PROHIBITION ON AUTHORIZATION OF EXTERNAL BORROWING.—On or after the date of enactment of this Act, neither the United Nations nor any specialized agency of the United Nations has amended its financial regulations to permit external borrowing.

(B) PROHIBITION OF UNITED STATES PAYMENT OF INTEREST COSTS.—The United States has not, on or after October 1, 1984, paid its share of any interest costs made known to or identified by the United States Government for loans incurred, on or after October 1, 1984, by the United Nations or any specialized agency of the United Nations through external borrowing.

(b) TRANSMITTAL.—The Secretary of State may transmit a certification under subsection (a) at any time during fiscal year 1998 or thereafter if the requirements of the certification are satisfied.

## CHAPTER 3—REFORM OF ASSESSMENTS AND UNITED NATIONS PEACEKEEPING OPERATIONS

### SEC. 931. CERTIFICATION REQUIREMENTS.

(a) IN GENERAL.—A certification described in this section is a certification by the Secretary of State that the conditions in subsection

(b) are satisfied. Such certification shall not be made by the Secretary if the Secretary determines that any of the conditions set forth in section 921 are no longer satisfied.

(b) CONDITIONS.—The conditions under this subsection are the following:

(1) CONTESTED ARREARAGES.—The United Nations has established an account or other appropriate mechanism with respect to all United States arrearages incurred before the date of enactment of this Act with respect to which payments are not authorized by this Act, and the failure to pay amounts specified in the account does not affect the application of Article 19 of the Charter of the United Nations. The account established under this paragraph may be referred to as the "contested arrearages account".

(2) LIMITATION ON ASSESSED SHARE OF BUDGET FOR UNITED NATIONS PEACEKEEPING OPERATIONS.—The assessed share of the budget for each assessed United Nations peacekeeping operation does not exceed 28.15 percent[3] for any single United Nations member.

(3) LIMITATION ON ASSESSED SHARE OF REGULAR BUDGET.—The share of the total of all assessed contributions for the regular budget of the United Nations does not exceed 22 percent for any single United Nations member.

## CHAPTER 4—BUDGET AND PERSONNEL REFORM

### SEC. 941. CERTIFICATION REQUIREMENTS.

(a) IN GENERAL.—

(1) IN GENERAL.—Except as provided in paragraph (2), a certification described in this section is a certification by the Secretary of State that the conditions in subsection (b) are satisfied.

(2) SPECIFIED CERTIFICATION.—A certification described in this section is[4] a certification that, with respect to the United Nations or a particular designated specialized agency, the conditions[4] applicable to that organization are satisfied, regardless of whether the conditions[4] applicable to any other organization are satisfied.[4]

(3) EFFECT OF SPECIFIED CERTIFICATION.—Funds made available under section 912(b)(3) upon a certification made under this section with respect to the United Nations or a particular designated specialized agency shall be limited to that portion of the funds available under that section that is allocated for the organization with respect to which the certification is made.[5]

(4) LIMITATION.—A certification described in this section shall not be made by the Secretary if the Secretary determines

[3] Sec. 1(a) of Public Law 107–46 (115 Stat. 259) struck out "25 percent" and inserted in lieu thereof "28.15 percent".

[4] Sec. 401(a)(2) of Public Law 107–228 (116 Stat. 1387) struck out "also" between "this section is" and "a certification that"; struck out "in subsection (b)(4)" in both places it appeared between "conditions" and "applicable"; and struck out ", if the other conditions in subsection (b) are satisfied" at the end of para. (2).

[5] Sec. 401(a)(3) of Public Law 107–228 (116 Stat. 1388) struck out "and for any other organization to which none of the conditions in subsection (b) apply".

that any of the conditions set forth in sections 921 and 931 are no longer satisfied.

(b) CONDITIONS.—The conditions under this subsection are the following:

(1) LIMITATION ON ASSESSED SHARE OF REGULAR BUDGET.—The share of the total of all assessed contributions for the regular budget of the United Nations, or any designated specialized agency of the United Nations, does not exceed 20 percent for any single United Nations member.

(2) INSPECTORS GENERAL FOR CERTAIN ORGANIZATIONS.—

(A) ESTABLISHMENT OF OFFICES.—Each designated specialized agency has established an independent office of inspector general to conduct and supervise objective audits, inspections, and investigations relating to the programs and operations of the organization.

(B) APPOINTMENT OF INSPECTORS GENERAL.—The Director General of each designated specialized agency has appointed an inspector general, with the approval of the member states, and that appointment was made principally on the basis of the appointee's integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

(C) ASSIGNED FUNCTIONS.—Each inspector general appointed under subparagraph (A) is authorized to—

(i) make investigations and reports relating to the administration of the programs and operations of the agency concerned;

(ii) have access to all records, documents, and other available materials relating to those programs and operations of the agency concerned; and

(iii) have direct and prompt access to any official of the agency concerned.

(D) COMPLAINTS.—Each designated specialized agency has procedures in place designed to protect the identity of, and to prevent reprisals against, any staff member making a complaint or disclosing information to, or cooperating in any investigation or inspection by, the inspector general of the agency.

(E) COMPLIANCE WITH RECOMMENDATIONS.—Each designated specialized agency has in place procedures designed to ensure compliance with the recommendations of the inspector general of the agency.

(F) AVAILABILITY OF REPORTS.—Each designated specialized agency has in place procedures to ensure that all annual and other relevant reports submitted by the inspector general to the agency are made available to the member states without modification except to the extent necessary to protect the privacy rights of individuals.

(3) BUDGET PRACTICES[6] FOR THE UNITED NATIONS.—The United Nations[6] is implementing budget practices[6] that—

[6] Sec. 401(a)(4)(A) of Public Law 107–228 (116 Stat. 1388) struck out "NEW BUDGET PROCEDURES" in the paragraph heading and inserted in lieu thereof "BUDGET PRACTICES". Sec. 401(a)(4)(B) struck out "has established and", and sec. 401(a)(4)(C) struck out "procedures" and

(A) result in[6] the maintenance of a budget not in excess of the level agreed to by the General Assembly at the beginning of each United Nations budgetary biennium, unless increases are agreed to by consensus; and

(B) result in[6] the system-wide identification of expenditures by functional categories such as personnel, travel, and equipment.

(4) SUNSET POLICY FOR CERTAIN UNITED NATIONS PROGRAMS.—

(A) EXISTING AUTHORITY.—The Secretary General and the Director General of each designated specialized agency have used their existing authorities to require program managers within the United Nations Secretariat and the Secretariats of the designated specialized agencies to conduct evaluations of United Nations programs approved by the General Assembly, and of programs of the designated specialized agencies, in accordance with the standardized methodology referred to in subparagraph (B).

(B) DEVELOPMENT OF EVALUATION CRITERIA.—

(i) UNITED NATIONS.—The Office of Internal Oversight Services has developed a standardized methodology for the evaluation of United Nations programs approved by the General Assembly, including specific criteria for determining the continuing relevance and effectiveness of the programs.

(ii) DESIGNATED SPECIALIZED AGENCIES.—Patterned on the work of the Office of Internal Oversight Services of the United Nations, each designated specialized agency has developed a standardized methodology for the evaluation of the programs of the agency, including specific criteria for determining the continuing relevance and effectiveness of the programs.

(C) PROCEDURES.—Consistent with the July 16, 1997, recommendations of the Secretary General regarding a sunset policy and results-based budgeting for United Nations programs, the United Nations and each designated specialized agency has established and is implementing procedures—

(i) requiring the Secretary General or the Director General of the agency, as the case may be, to report on the results of evaluations referred to in this paragraph, including the identification of programs that have met criteria for continuing relevance and effectiveness and proposals to terminate or modify programs that have not met such criteria; and

(ii) authorizing an appropriate body within the United Nations or the agency, as the case may be, to review each evaluation referred to in this paragraph and report to the General Assembly on means of improving the program concerned or on terminating the program.

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inserted in lieu thereof "practices", from the language preceding subpara. (A). Sec. 401(a)(4)(D) struck out "require" from each place it appeared in subparas. (A) and (B).

(D) UNITED STATES POLICY.—It shall be the policy of the United States to seek adoption by the United Nations of a resolution requiring that each United Nations program approved by the General Assembly, and to seek adoption by each designated specialized agency of a resolution requiring that each program of the agency, be subject to an evaluation referred to in this paragraph and have a specific termination date so that the program will not be renewed unless the evaluation demonstrates the continuing relevance and effectiveness of the program.

(E) DEFINITION.—For purposes of this paragraph, the term "United Nations program approved by the General Assembly" means a program approved by the General Assembly of the United Nations which is administered or funded by the United Nations.

(5) UNITED NATIONS ADVISORY COMMITTEE ON ADMINISTRATIVE AND BUDGETARY QUESTIONS.—

(A) IN GENERAL.—The United States has a seat on the United Nations Advisory Committee on Administrative and Budgetary Questions or the five largest member contributors each have a seat on the Advisory Committee.

(B) DEFINITION.—As used in this paragraph, the term "5 largest member contributors" means the 5 United Nations member states that, during a United Nations budgetary biennium, have more total assessed contributions than any other United Nations member state to the aggregate of the United Nations regular budget and the budget (or budgets) for United Nations peacekeeping operations.

(6) ACCESS BY THE GENERAL ACCOUNTING OFFICE.—The United Nations has in effect procedures providing access by the United States General Accounting Office to United Nations financial data to assist the Office in performing nationally mandated reviews of United Nations operations.

(7) PERSONNEL.—

(A) APPOINTMENT AND SERVICE OF PERSONNEL.—The Secretary General—

(i) has established and is implementing procedures that ensure that staff employed by the United Nations is appointed on the basis of merit consistent with Article 101 of the United Nations Charter; and

(ii) is enforcing those contractual obligations requiring worldwide availability of all professional staff of the United Nations to serve and be relocated based on the needs of the United Nations.

(B) CODE OF CONDUCT.—The General Assembly has adopted, and the Secretary General has the authority to enforce and is effectively enforcing, a code of conduct binding on all United Nations personnel, including the requirement of financial disclosure statements binding on senior United Nations personnel and the establishment of rules against nepotism that are binding on all United Nations personnel.

(C) PERSONNEL EVALUATION SYSTEM.—The United Nations has adopted and is enforcing a personnel evaluation system.

(D) PERIODIC ASSESSMENTS.—The United Nations has established and is implementing a mechanism to conduct periodic assessments of the United Nations payroll to determine total staffing, and the results of such assessments are reported in an unabridged form to the General Assembly.

(E) REVIEW OF UNITED NATIONS ALLOWANCE SYSTEM.—The United States has completed a thorough review of the United Nations personnel allowance system. The review shall include a comparison of that system with the United States civil service system, and shall make recommendations to reduce entitlements to allowances and allowance funding levels from the levels in effect on January 1, 1998.

(8) REDUCTION IN BUDGET AUTHORITIES.—The designated specialized agencies have achieved zero nominal growth in their biennium budgets for 2000–01 from the 1998–99 biennium budget levels of the respective agencies.

(9) BUDGET PRACTICES[7] AND FINANCIAL REGULATIONS.—The practices of each designated specialized agency—[7]

(A) result in[7] the maintenance of a budget that does not exceed the level agreed to by the member states of the organization at the beginning of each budgetary biennium, unless increases are agreed to by consensus;

(B) result in[7] the identification of expenditures by functional categories such as personnel, travel, and equipment; and

(C) result in[7] approval by the member states of the agency's supplemental budget requests to the Secretariat in advance of expenditures under those requests.

(10) LIMITATION ON ASSESSED SHARE OF REGULAR BUDGET FOR THE DESIGNATED SPECIALIZED AGENCIES.—The share of the total of all assessed contributions for any designated specialized agency does not exceed 22 percent for any single member of the agency.

## Subtitle C—Miscellaneous Provisions

### SEC. 951. STATUTORY CONSTRUCTION ON RELATION TO EXISTING LAWS.

Except as otherwise specifically provided, nothing in this title may be construed to make available funds in violation of any provision of law containing a specific prohibition or restriction on the use of the funds, including section 114 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98–164; 22 U.S.C. 287e note), section 151 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93; 22

[7] Sec. 401(a)(5)(A) of Public Law 107–228 (116 Stat. 1388) struck out "NEW BUDGET PROCEDURES" in the paragraph heading and inserted in lieu thereof "BUDGET PRACTICES". Sec. 401(a)(5)(B) of that Act struck out "Each designated specialized agency has established procedures to—" in the language preceding subpara. (A) and inserted in lieu thereof "The practices of each designated specialized agency—" Sec. 401(a)(5)(C) struck out "require" where it appeared in subparas. (A), (B), and (C) and inserted in lieu thereof "result in".

U.S.C. 287e note), and section 404 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 22 U.S.C. 287e note).

**SEC. 952. PROHIBITION ON PAYMENTS RELATING TO UNIDO AND OTHER INTERNATIONAL ORGANIZATIONS FROM WHICH THE UNITED STATES HAS WITHDRAWN OR RESCINDED FUNDING.**

None of the funds authorized to be appropriated by this title shall be used to pay any arrearage for—

(1) the United Nations Industrial Development Organization;

(2) any costs to merge that organization into the United Nations;

(3) the costs associated with any other organization of the United Nations from which the United States has withdrawn including the costs of the merger of such organization into the United Nations; or

(4) the World Tourism Organization, or any other international organization with respect to which Congress has rescinded funding.

## 4. United Nations Headquarters Agreement Act [1]

**Partial text of Public Law 80–357 [S.J. Res. 144], 61 Stat. 756, approved August 4, 1947**

JOINT RESOLUTION Authorizing the President to bring into effect an agreement between the United States and the United Nations for the purpose of establishing the permanent headquarters of the United Nations in the United States and authorizing the taking of measures necessary to facilitate compliance with the provisions of such agreement, and for other purposes.

Whereas the Charter of the United Nations was signed on behalf of the United States on June 26, 1945, and was ratified on August 8, 1945, by the President of the United States, by and with the advice and consent of the Senate, and the instrument of ratification of said Charter was deposited on August 8, 1945; and

Whereas the said Charter of the United Nations came into force with respect to the United States on October 24, 1945; and

Whereas article 104 of the Charter provides that "The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes"; and

Whereas article 105 of the Charter provides that:

"1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfillment of its purposes.

"2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

"3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this article or may propose conventions to the Members of the United Nations for this purpose."; and

Whereas article 28 and other articles of the Charter of the United Nations contemplate the establishment of a seat for the permanent headquarters of the Organization; and

Whereas the interim arrangements concluded on June 26, 1945, by the governments represented at the United Nations Conference on International Organization instructed the Preparatory Commission established in pursuance of the arrangements to "make studies and prepare recommendations concerning the location of the permanent headquarters of the Organization"; and

Whereas during the labors of the said Preparatory Commission, the Congress of the United States in H. Con. Res. 75, passed unanimously by the House of Representatives December 10, 1945, and agreed to unanimously by the Senate December 11, 1945, invited

[1] 22 U.S.C. 287 note.

the United Nations "to locate the seat of the United Nations Organization within the United States"; and

Whereas the General Assembly on December 14, 1946, resolved "that the permanent headquarters of the United Nations shall be established in New York City in the area bounded by First Avenue, East Forty-eighth Street, the East River, and East Forty-second Street"; and

Whereas the General Assembly resolved on December 14, 1946, "That the Secretary-General be authorized to negotiate and conclude with the appropriate authorities of the United States of America an agreement concerning the arrangements required as a result of the establishment of the permanent headquarters of the United Nations in the city of New York" and to be guided in these negotiations by the provisions of a preliminary draft agreement which had been negotiated by the Secretary-General and the Secretary of State of the United States; and

Whereas the General Assembly resolved on December 14, 1946, that pending the coming into force of the agreement referred to above "the Secretary-General be authorized to negotiate and conclude arrangements with the appropriate authorities of the United States of America to determine on a provisional basis the privileges, immunities, and facilities needed in connection with the temporary headquarters of the United Nations"; and

Whereas the Secretary of State of the United States, after consultation with the appropriate authorities of the State and city of New York, signed at Lake Success, New York, on June 26, 1947, on behalf of the United States an agreement with the United Nations regarding the headquarters of the United Nations, which agreement is incorporated herein; and

Whereas the aforesaid agreement provides that it shall be brought into effect by an exchange of notes between the United States and the Secretary-General of the United Nations: Therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President is hereby authorized to bring into effect on the part of the United States the agreement between the United States of America and the United Nations regarding the headquarters of the United Nations, signed at Lake Success, New York, on June 26, 1947 (hereinafter referred to as the "agreement"), with such changes therein not contrary to the general tenor thereof and not imposing any additional obligations on the United States as the President may deem necessary and appropriate, and at his discretion, after consultation with the appropriate State and local authorities, to enter into such supplemental agreements with the United Nations as may be necessary to fulfill the purposes of the said agreement: *Provided,* That any supplemental agreement entered into pursuant to section 5 of the agreement incorporated herein shall be submitted to the Congress for approval. The agreement follows: [2]

* * * * * * *

[2] For text of the agreement, see *Legislation on Foreign Relations Through 2005*, vol. V.

SEC. 2. For the purpose of carrying out the obligations of the United States under said agreement and supplemental agreements with respect to United States assurances that the United Nations shall not be dispossessed of its property in the headquarters district, and with respect to the establishment of radio facilities and the possible establishment of an airport:

(a) The President of the United States, or any official or governmental agency authorized by the President, may acquire in the name of the United States any property or interest therein by purchase, donation, or other means of transfer, or may cause proceedings to be instituted for the acquisition of the same by condemnation.

(b) Upon the request of the President, or such officer as the President may designate, the Attorney General of the United States shall cause such condemnation or other proceedings to be instituted in the name of the United States in the district court of the United States for the district in which the property is situated and such court shall have full jurisdiction of such proceedings, and any condemnation proceedings shall be conducted in accordance with the Act of August 1, 1888 (25 Stat. 357), as amended, and the Act of February 26, 1931 (46 Stat. 1421), as amended.

(c) After the institution of any such condemnation proceedings, possession of the property may be taken at any time the President, or such officer as he may designate, determines is necessary, and the court shall enter such orders as may be necessary to effect entry and occupancy of the property.

(d) The President of the United States, or any officer or governmental agency duly authorized by the President, may, in the name of the United States, transfer or convey possession of and title to any interest in any property acquired or held by the United States, pursuant to paragraph (a) above, to the United Nations on the terms provided in the agreement or in any supplemental agreement, and shall execute and deliver such conveyances and other instruments and perform such other acts in connection therewith as may be necessary to carry out the provisions of the agreement.

(e) There are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be required to enable the United States to carry out the undertakings hereby authorized: *Provided,* That any money appropriated under this authorization shall be spent only on a basis of reimbursement by the United Nations in accordance with section 3 of the agreement, and that the money thus reimbursed shall be deposited and covered into the Treasury of the United States as miscellaneous receipts.

SEC. 3. The President, or the Secretary of State under his direction, is authorized to enter into agreements with the State of New York or any other State of the United States and to the extent not inconsistent with State law, with any one or more of the political subdivisions thereof in aid of effectuating the provisions of the agreement.

SEC. 4. Any States, or, to the extent not inconsistent with State law, any political subdivisions thereof, affected by the establishment of the headquarters of the United Nations in the United

States are authorized to enter into agreements with the United Nations or with each other consistent with the agreement and for the purpose of facilitating compliance with the same: *Provided,* That, except in cases of emergency and agreements of a routine contractual character, a representative of the United States, to be appointed by the Secretary of State, may, at the discretion of the Secretary of State, participate in the negotiations, and that any such agreement entered into by such State or States or political subdivisions thereof shall be subject to approval by the Secretary of State.

SEC. 5. The President is authorized to make effective with respect to the temporary headquarters of the United Nations in the State of New York, on a provisional basis, such of the provisions of the agreement as he may deem appropriate, having due regard for the needs of the United Nations at its temporary headquarters.

SEC. 6. Nothing in the agreement shall be construed as in any way diminishing, abridging, or weakening the right of the United States to safeguard its own security and completely to control the entrance of aliens into any territory of the United States other than the headquarters district and its immediate vicinity, as to be defined and fixed in a supplementary agreement between the Government of the United States and the United Nations in pursuance of section 13(3)(e) of the agreement, and such areas as it is reasonably necessary to traverse in transit between the same and foreign countries. Moreover, nothing in section 14 of the agreement with respect to facilitating entrance into the United States by persons who wish to visit the headquarters district and do not enjoy the right of entry provided in section 11 of the agreement shall be construed to amend or suspend in any way the immigration laws of the United States or to commit the United States in any way to effect any amendment or suspension of such law.

## 5. U.S. Participation in Certain International Organizations

**Partial text of Public Law 81–806 [H.J. Res. 334], 64 Stat. 902, approved September 21, 1950; as amended by Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002**

JOINT RESOLUTION To amend certain laws providing for membership and participation by the United States in certain international organizations.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following laws of the United States are hereby amended in the following particulars: * * *[1]

SEC. 2.[2] All financial contributions by the United States to the normal operations of the international organizations covered by this Act, which member states are obligated to support annually, shall be limited to the amounts provided in this Act: *Provided,* That contributions for special projects not regularly budgeted by such international organizations shall not be subject to the above limitation.

All financial contributions by the United States to international organizations in which the United States participates as a member shall be made by or with the consent of the Department of State regardless of the appropriation from which any such contributions is made.[3]

[1] This resolution raised funding authorizations for U.S. participation in international organizations: American International Institute for the Protection of Childhood (22 U.S.C. 269b—obsolete), United Nations Food and Agricultural Organization (22 U.S.C. 279a), South Pacific Commission (22 U.S.C. Supp. III, 280b(a)), World Health Organization (22 U.S.C. Supp. III, 290b), and International Labour Conference, International Labor Organization (22 U.S.C. Supp. III, 272a(a) and (b)).

[2] 22 U.S.C. 262a.

[3] Sec. 405(b)(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1391), struck out the last sentence of sec. 2, which had read, "The Secretary of State shall report annually to the Congress on the extent and disposition of such contributions.".

## 6. Appropriations Limitation on Contributions to International Organizations

**Partial text of Public Law 92–544 [H.R. 14989], 86 Stat. 1109, approved October 25, 1972**

AN ACT Making appropriations for the Departments of State, Justice and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1973, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1973, and for other purposes, namely:

* * * * * * *

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS [1]

* * * *Provided,* That after December 31, 1973, no appropriation is authorized and no payment shall be made to the United Nations or any affiliated agency in excess of 25 per centum [1] of the

[1] See the Department of State Appropriation Act, 1953 (title I of the Departments of State, Justice, Commerce, and The Judiciary Appropriation Act, 1953; Public Law 82–495; 66 Stat. 550), which also restricts contributions to international organizations not exempted. It reads as follows:

"No representative of the United States Government in any international organization after fiscal year 1953 shall make any commitment requiring the appropriation of funds for a contribution by the United States in excess of 33½ per centum of the budget of any international organization for which the appropriation for the United States contribution is contained in this Act: *Provided,* That in exceptional circumstances necessitating a contribution by the United States in excess of 33⅓ per centum of the budget, a commitment requiring a United States appropriation of a larger proportion may be made after consultation by United States representatives in the organization or other appropriate officials of the Department of State with the Committees on Appropriations of the Senate and House of Representatives; *Provided, however,* That this section shall not apply to the United States representatives to the Inter-American organizations, Caribbean Commission and the Joint Support program of the International Civil Aviation Organization.".

This provision, minus the last sentence, first appeared in sec. 602 of the Departments of State, Justice, Commerce, and the Judiciary Appropriation Act, 1952 (Public Law 83–188; 65 Stat. 599; October 22, 1951). See 22 U.S.C. 262b.

The Department of State Appropriation Act, 1954 (Public Law 83–195; 67 Stat. 368) added the exemption granted to the Caribbean Commission and the Joint Support program of the International Civil Aviation Organization.

NOTE: In addition, there are specific legislative limitations on the percentage contribution of the United States to the following organizations:

(1) 33⅓ percent to the World Health Organization (Act of July 14, 1948; 22 U.S.C. 290b). However, sec. 103 of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 844), stated that notwithstanding the provisions of Public Law 92–544, $7,281,583 of the FY 1978 appropriation authorization for "International Organizations and Conferences" is authorized to be paid to the World Health Organization for any unpaid balance of the U.S. assessed contribution to such organization for the calendar years 1974 through 1977.

(2) 33⅓ percent to the Food and Agriculture Organization (Act of July 31, 1945; 22 U.S.C. 279a);

(3) 25 percent to the International Labor Organization (Act of June 30, 1948; 22 U.S.C. 272a);

(4) 25 percent to the NATO Parliamentary Conference (Act of July 11, 1956; 22 U.S.C. 1928b); and

(5) Not to exceed 20 per centum of the total contributions assessed for any period to administer the International Coffee Agreement (TIAS 5505, 14 UST 1911, September 28, 1962), and

total annual assessment of such organization. Appropriations are authorized and contributions and payments may be made to the following organizations and activities notwithstanding that such contributions and payments are in excess of 25 per centum of the total annual assessment of the respective organization or 33⅓ per centum of the budget for the respective activity: the International Atomic Energy Agency, the joint financing program of the International Civil Aviation Organization, and contributions for international peacekeeping activities conducted by or under the auspices of the United Nations or through multilateral agreements.[2]

* * * * * * *

such amount shall not exceed $150,000 for any fiscal year, to the International Coffee Organization (sec. 6 of Public Law 89–23; 79 Stat. 113; approved May 22, 1965). However, sec. 428 of Public Law 103–236 provides that no funds authorized to be appropriated by that Act may be made available for the ICO.

See also secs. 114 and 115 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98–164; 97 Stat. 1020), which provided other limitations on certain U.S. contributions to international organizations.

[2] Sec. 203 of the Foreign Relations Authorization Act, Fiscal Year 1976 (Public Law 94–141), inserted a period after "organization", struck out the text following it, and inserted the language beginning with "Appropriations are authorized". Formerly, the section following "organization" read "except that this proviso shall not apply to the International Atomic Energy Agency and to the joint financing program of the International Civil Aviation Organization.".

## 7. U.N. Provisions in Foreign Relations Authorization Acts

NOTE.—For provisions in recent Foreign Relations Authorization Act relating to the United Nations, see:

—Foreign Relations Authorization Act, Fiscal Year 2003, division A, title IV (Public Law 107–228; 116 Stat. 1387);

—Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, especially title VII, subtitle B (H.R. 3427, as enacted by sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1501A–462);

—Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, especially title IV, part A (Public Law 103–236; 108 Stat. 382);

—Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, secs. 161, 170, 174, 175, 192, 212, and 364 (Public Law 102–138; 105 Stat. 647);

—Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, secs. 406 through 408 (Public Law 101–246; 104 Stat. 15);

—Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, title VII and sec. 1211 (Public Law 100–204; 101 Stat. 1331);

—Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, sec. 151 (Public Law 99–93; 99 Stat. 405);

—Department of State Authorization Act, Fiscal Years 1984 and 1985, secs. 113 through 116, 118, and 119 (Public Law 98–164; 97 Stat. 1017);

—Department of State Authorization Act, Fiscal Years 1982 and 1983, secs. 104, 108, and 109 (Public Law 97–241; 96 Stat. 273);

—Foreign Relations Authorization Act, Fiscal Year 1979, secs. 103 and 609 (Public Law 95–426; 92 Stat. 963);

—Foreign Relations Authorization Act, Fiscal Year 1978, sec. 503 (Public Law 95–105; 91 Stat. 844); and

—Foreign Relations Authorization Act, Fiscal Year 1976, secs. 205 and 503 (Public Law 94–141; 89 Stat. 756).

## 8. United Nations Peacekeeping Forces in the Middle East

**Public Law 94–37 [S. 818], 89 Stat. 216, approved June 19, 1975; as amended by Public Law 99–93 [Foreign Relations Authorization Act, Fiscal Years 1986 and 1987; H.R. 2068], 99 Stat. 408, approved August 16, 1985**

AN ACT To authorize United States payments to the United Nations for expenses of the United Nations peacekeeping forces in the Middle East, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of State may, to the extent funds are authorized and appropriated for this purpose, make payments of[1] such sums as may be necessary from time to time for payment by the United States of its share of the expenses of the United Nations peacekeeping forces in the Middle East, as apportioned by the United Nations in accordance with article 17 of the United Nations Charter, notwithstanding the limitation on contributions to international organizations contained in Public Law 92–544 (86 Stat. 1109).[2]

[1] Sec. 103 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93; 99 Stat. 408) struck out "there is hereby authorized to be appropriated to the Department of State" and inserted in lieu thereof "the Secretary of State may, to the extent funds are authorized and appropriated for this purpose, make payments of".

[2] The Department of State Appropriation Act, 1980 (title I of the Departments of State, Justice, Commerce, the Judiciary, and Related Agencies Appropriation Act, 1980; Public Law 96–68; 93 Stat. 417), appropriated $67,000,000 for U.S. payment to the United Nations peacekeeping forces in the Middle East.

## 9. Response to United Nations Resolution on Zionism

NOTE.—On December 16, 1991, the United Nations General Assembly voted to "revoke the determination contained in its resolution 3379 (XXX) of 10 November 1975", making obsolete those Public Laws and resolutions calling for the repeal of Resolution 3379: Public Law 101–317 [S.J. Res. 246], 104 Stat. 285, approved June 29, 1990; Public Law 100–169 [S.J. Res. 205], 101 Stat. 913, approved November 17, 1987; Public Law 99–90 [S.J. Res. 98], 99 Stat. 385, approved August 15, 1985; House Resolution 855, 94th Congress, agreed to November 11, 1975; Senate Resolution 288, 94th Congress, agreed to October 28, 1975, and Senate Concurrent Resolution 73, 94th Congress, agreed to November 12, 1975.

## 10. United Nations Environment Program Participation Act of 1973

**Public Law 93–188 [H.R. 6788], 87 Stat. 713, approved December 15, 1973**

AN ACT To provide for participation by the United States in the United Nations environment program.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "United Nations Environment Program Participation Act of 1973".

SEC. 2. It is the policy of the United States to participate in coordinated international efforts to solve environmental problems of global and international concern, and in order to assist the implementation of this policy, to contribute funds to the United Nations Environmental Fund for the support of international measures to protect and improve the environment.

SEC. 3. There is authorized to be appropriated $40,000,000 for contributions to the United Nations Environment Fund, which amount is authorized to remain available until expended, and which may be used upon such terms and conditions as the President may specify: *Provided,* That not more than $10,000,000 may be appropriated for use in fiscal year 1974.[1]

[1] The Foreign Assistance Appropriations Act, 1977, provided $10 million for necessary expenses to carry out the provisions of sec. 2.

## 11. Support of Peaceful Settlement of Disputes

**Executive Order 10206, January 19, 1951, 16 F.R. 529, 22 U.S.C. 287d–1 note.**

By virtue of the authority vested in me by the Constitution and the statutes, including the United Nations Participation Act of 1945 (59 Stat. 619), as amended, hereinafter referred to as the Act, and the act of August 8, 1950 (Public Law 673, 81st Congress), and as President of the United States, it is hereby ordered as follows:

**1.** The Secretary of State, upon the request by the United Nations for cooperative action, and to the extent that he finds that it is consistent with the national interest to comply with such request, is authorized, in support of such activities of the United Nations as are specifically directed to the peaceful settlement of disputes and are not involving the employment of armed forces contemplated by Chapter VII of the United Nations Charter, to request the Secretary of Defense to detail personnel of the armed forces to the United Nations, and to furnish facilities, services, or other assistance and to loan supplies and equipment to the united Nations in an agreed fair share of the United States under such terms and conditions as the Secretary of State and the Secretary of Defense shall jointly determine and in accordance with and subject to the provisions of paragraphs (1), (2), and (3) of section 7(a) of the Act, and the Secretary of Defense is authorized to comply with the request of the Secretary of State, giving due regard to the requirements of the national defense.

**2.** The Secretary of State, in accordance with and subject to the provisions of section 7(b) of the Act, shall require reimbursement from the United Nations for the expense thereby incurred by the United States whenever personnel or assistance is made available to the United Nations except that in exceptional circumstances or when the Secretary of State finds it to be in the national interest, he may, after consultation with the Secretary of Defense, waive, in whole or in part, the requirement of such reimbursement.

**3.** The Secretary of Defense, in accordance with and subject to the provisions of section 7(a)(1) of the Act, may authorize personnel of the armed forces detailed to the United Nations to accept directly from the United Nations (a) any or all of the allowances or perquisites to which they are entitled under the first proviso of section 7(a)(1) of the Act, and (b) extraordinary expenses and perquisites incident to such detail.

## 12. Privileges and Immunities

### a. International Organizations Immunities Act, as amended

**Partial text of Public Law 79–291 [H.R. 4489], 59 Stat. 669, approved December 29, 1945; as amended by Public Law 89–353 [H.R. 8210], 80 Stat. 5, approved February 2, 1966; Public Law 93–161 [H.R. 8219], 87 Stat. 635, approved November 27, 1973; Public Law 96–60 [Department of State Authorization Act, Fiscal Years 1980 and 1981; H.R. 3363], 93 Stat. 403, approved August 15, 1979; Public Law 98–164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2159], 97 Stat. 1017 at 1023, approved November 22, 1983; Public Law 100–204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987; Public Law 100–362 [International Organizations Immunities Act: Organization of Eastern Caribbean States; H.R. 4162], 102 Stat. 819, approved July 6, 1988; Public Law 103–236 [Foreign Relations Authorization Act, Fiscal Years 1994 and 1995; H.R. 2333], 108 Stat. 382, approved April 30, 1994; Public Law 105–277 [Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; H.R. 4328], 112 Stat. 2681, approved October 21, 1998; Public Law 107–278 [H.R. 3656], 116 Stat. 1939, approved November 5, 2002; Public Law 108–199 [Consolidated Appropriations Act, 2004; H.R. 2673], 118 Stat. 3, approved January 23, 2004; Public Law 108–447 [Consolidated Appropriations Act, 2005; H.R. 4818], 118 Stat. 2809, approved December 8, 2004; Public Law 108–497 [Comprehensive Peace in Sudan Act of 2004; S. 2781], 118 Stat. 4012, approved December 23, 2004; and Public Law 109–472 [Department of State Authorities Act of 2006; H.R. 6060], 120 Stat. 3554, approved January 11, 2007**

AN ACT To extend certain privileges, exemptions, and immunities to international organizations and to the officers and employees thereof, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

TITLE I

SECTION 1.[1] For the purposes of this title the term "International organization" means a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation, and which shall have been designated by the President through appropriate Executive order as being entitled to enjoy the privileges, exemptions, and immunities herein provided. The President shall be authorized, in the light of the functions performed by any such international organization, by appropriate Executive order to withhold or withdraw from any such organization or its officers or employees any of the privileges, exemptions, and immunities provided for in this title (including the amendments made by this title) or to condition or limit the enjoyment by any such organization or its officers or employees of any such privilege, exemption, or immunity. The President shall be authorized, if in his judgment such action should be

[1] 22 U.S.C. 288.

justified by reason of the abuse by an international organization or its officers and employees of the privileges, exemptions, and immunities herein provided or for any other reason, at any time revoke the designation of any international organization under this section, whereupon the international organization in question shall cease to be classed as an international organization for the purposes of this title.[2]

| Executive Order No. | Date | Organization |
|---|---|---|
| 9698 .... | February 19, 1946 | The Food and Agriculture Organization. |
| | | The International Labor Organization. |
| | | The United Nations. |
| 9751 .... | July 11, 1946 | Inter-American Institute of Agricultural Sciences. |
| | | Inter-American Statistical Institute. |
| | | International Bank for Reconstruction and Development. |
| | | International Monetary Fund. |
| 9823 .... | January 24, 1947 | International Wheat Advisory Committee. |
| | | (International Wheat Council.) |
| 9863 .... | May 31, 1947 | United Nations Educational, Scientific, and Cultural Organization. |
| | | International Civil Aviation Organization. |
| | | International Telecommunication Union. |
| 9911 .... | December 10, 1947 | International Cotton Advisory Committee. |
| 9972 .... | June 25, 1948 | International Joint Commission, United States and Canada. |
| 10025 .. | December 30, 1948 | World Health Organization. |
| 10086 .. | November 25, 1949 | South Pacific Commission. |
| 10133 .. | June 27, 1950 | Organization for European Economic Cooperation. |
| 10228 .. | March 26, 1951 | Inter-American Defense Board. |
| 10335 .. | March 28, 1952 | Provisional Intergovernmental Committee for the Movement of Migrants from Europe (now the Intergovernmental Committee for European Migration). |
| 10533 .. | June 3, 1954 | Organization of American States (includes the Pan American Union, previously designated February 19, 1946, by Executive Order No. 9698). |
| 10676 .. | September 1, 1956 | World Meteorological Organization. |
| 10680 .. | October 2, 1956 | International Finance Corporation. |
| 10727 .. | August 31, 1957 | International Atomic Energy Agency (included the Preparatory Commission of the International Atomic Energy Agency). |
| | | Universal Postal Union. |
| 10769 .. | May 20, 1958 | International Hydrographic Bureau. |
| 10795 .. | December 13, 1958 | Intergovernmental Maritime Consultative Organization. |
| 10864 .. | February 18, 1960 | Pan American Health Organization (includes the Pan American Sanitary Bureau, previously designated July 11, 1946, by Executive Order No. 9751). |
| 10873 .. | April 8, 1960 | Inter-American Development Bank. |
| 10983 .. | December 30, 1961 | Caribbean Organization. |

[2] The international organizations listed below this note are currently designated by the President as public international organizations entitled to enjoy the privileges, exemptions and immunities of the International Organizations Immunities Act.

Sec. 283 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 110 Stat. 980; 22 U.S.C. 288 note) provided the following:

"**SEC. 283. INTERNATIONAL COTTON ADVISORY COMMITTEE.**

"(a) IN GENERAL.—The President shall ensure that the Government of the United States participates as a full member of the International Cotton Advisory Committee.

"(b) REPRESENTATION BY THE SECRETARY.—The Secretary of Agriculture shall represent the Government of the United States as a member of the International Cotton Advisory Committee and shall delegate the primary responsibility to represent the Government of the United States to appropriately qualified individuals.".

| Executive Order No. | Date | Organization |
|---|---|---|
| 11059 .. | October 23, 1962 | Inter-American Tropical Tuna Commission. |
| | | Great Lakes Fishery Commission. |
| | | International Pacific Halibut Commission. |
| 11225 .. | May 22, 1965 | International Coffee Organization. |
| 11227 .. | June 2, 1965 | Interim Communications Satellite Committee. |
| 11277 .. | April 30, 1966 | International Telecommunications Satellite Consortium. |
| 11283 .. | May 27, 1966 | International Cotton Institute. |
| 11334 .. | March 7, 1967 | Asian Development Bank. |
| 11363 .. | July 20, 1967 | International Secretariat for Volunteer Service. |
| 11372 .. | September 18, 1967 | Lake Ontario Claims Tribunal (status revoked by Executive Order 11439, December 7, 1968). |
| 11484 .. | September 29, 1969 | United International Bureau for the Protection of Intellectual Property (BIRPI). |
| 11596 .. | June 5, 1971 | Customs Cooperation Council. |
| 11718 .. | May 14, 1973 | International Telecommunications Satellite Organization. |
| 11760 .. | January 17, 1974 | European Space Agency (superseding Executive Orders 11318 and 11351). |
| 11866 .. | June 20, 1975 | World Intellectual Property Organization. |
| 11966 .. | January 19, 1977 | International Development Association. |
| | | International Centre for Settlement of Investment Disputes. |
| | | International Telecommunications Satellite Organization. |
| 11977 .. | March 14, 1977 | The African Development Fund. |
| | | The International Fertilizer Development Center. |
| 12238 .. | September 12, 1980 | International Maritime Satellite Organization. |
| 12359 .. | April 22, 1982 | The Multinational Force and Observers. |
| | | The International Food Policy Research Institute (except for those provided by sec. 2(a)–(c), the last clause of sec. 2(d), and sec. 7(b). |
| 12403 .. | February 8, 1983 | The African Development Bank. |
| 12425 .. | June 16, 1983 | The International Criminal Police Organization (except for those provided by sec. 2(c), the portions of secs. 2(d) and 3 relating to customs duties and federal internal-revenue importation taxes, and secs. 4 through 6). |
| 12467 .. | March 2, 1984 | The International Boundary and Water Commission, United States and Mexico. |
| 12508 .. | March 22, 1985 | World Tourism Organization. |
| 12567 .. | October 2, 1986 | Inter-American Investment Corporation. |
| | | Commission for the Study of Alternatives to the Panama Canal. |
| | | Pacific Salmon Commission |
| 12628 .. | March 8, 1988 | United Nations Industrial Development Organization. |
| 12643 .. | June 23, 1988 | International Committee of the Red Cross. |
| 12647 .. | August 2, 1988 | Multilateral Investment Guarantee Organization. |
| 12651 .. | September 9, 1988 | Offices of the Commission of the European Communities. |
| 12669 .. | February 20, 1989 | Organization of Eastern Caribbean States. |
| 12732 .. | October 31, 1990 | International Fund for Agricultural Development. |
| 12766 .. | June 18, 1991 | European Bank for Reconstruction and Development. |
| | | European Space Agency. |
| 12842 .. | March 29, 1993 | International Development Law Institute. |
| 12894 .. | January 26, 1994 | North Pacific Marine Science Organization. |
| 12895 .. | January 26, 1994 | North Pacific Anadromous Fish Commission. |
| 12904 .. | March 16, 1994 | Commission for Environmental Cooperation. |
| | | Commission for Labor Cooperation. |
| | | Border Environment Cooperation Commission. |
| | | North American Development Bank. |
| 12956 .. | March 13, 1995 | Israel-United States Binational Industrial Research and Development Foundation. |

| Executive Order No. | Date | Organization |
|---|---|---|
| 12986 .. | January 18, 1996 | International Union for Conservation of Nature and Natural Resources (except for those provided by sec. 2(b), 2(c), and 7(b)). |
| 12997 .. | April 1, 1996 | Korean Peninsula Energy Development Organization. |
| 13029 .. | December 3, 1996 | Organization for Security and Cooperation in Europe (formerly the Conference on Security and Cooperation in Europe, change effective January 1, 1995). |
| 13042 .. | April 9, 1997 | World Trade Organization. |
| 13049 .. | June 11, 1997 | Organization for the Prohibition of Chemical Weapons. |
| 13052 .. | June 30, 1997 | Hong Kong Economic and Trade Offices. |
| 13097 .. | August 7, 1998 | Interparliamentary Union. |
| 13240 .. | December 18, 2001 | Council of Europe in Respect of the Group of States Against Corruption |
| 13307 .. | May 29, 2003 | European Central Bank |
| 13367 .. | December 21, 2004 | United States–Mexico Border Health Commission |
| 13377 .. | April 13, 2005 | African Union (revokes prior designation of the Organization of African Unity, Executive Order 11767, February 19, 1974) |
| 13395 .. | January 13, 2006 | Global Fund To Fight AIDS, Tuberculosis and Malaria |
| 13451 .. | November 19, 2007 | ITER International Fusion Energy Organization |

SEC. 2.[3] International organizations shall enjoy the status, immunities, exemptions, and privileges set forth in this section, as follows:

(a) International organizations shall, to the extent consistent with the instrument creating them, possess the capacity—

(i) to contract;

(ii) to acquire and dispose of real and personal property;

(iii) to institute legal proceedings.

(b) International organizations, their property and their assets, wherever located, and by whomsoever held, shall enjoy the same immunity from suit and every form of judicial process as is enjoyed by foreign governments, except to the extent that such organizations may expressly waive their immunity for the purposes of any proceedings or by the terms of any contract.

(c) Property and assets of international organizations, wherever located and by whomsoever held, shall be immune from search, unless such immunity be expressly waived, and from confiscation. The archives of international organizations shall be inviolable.

(d) Insofar as concerns customs duties and internal-revenue taxes imposed upon or by reason of importation, and the procedures in connection therewith; the registration of foreign agents; and the treatment of official communications, the privileges, exemptions, and immunities to which international organizations shall be entitled shall be those accorded under similar circumstances to foreign governments.

SEC. 3.[4] Pursuant to regulations prescribed by the Commissioner of Customs with approval of the Secretary of the Treasury, the baggage and effects of aliens, officers and employees of international organizations, or of aliens designated by foreign governments to

[3] 22 U.S.C. 288a.
[4] 22 U.S.C. 288b.

serve as their representatives in or to such organizations, or of the families, suites, and servants of such officers, employees, or representatives shall be admitted (when imported in connection with the arrival of the owner) free of customs duties and free of internal-revenue taxes imposed upon or by reason of importation.

SEC. 4.[5] The Internal Revenue Code is hereby amended as follows: * * *

SEC. 5. (a)[6] Effective January 1, 1946, section 209(b) of the Social Security Act, defining the term "employment" for the purposes of title II of the Act, is amended (1) by striking out the word "or" at the end of paragraph (14), (2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof a semicolon and the word "or", and (3) by inserting at the end of the subsection the following new paragraph:

> "(16) Service performed in the employ of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act."

(b)[7] No taxes shall be collected under title VIII or IX of the Social Security Act or under the Federal Insurance Contributions Act or the Federal Unemployment Tax Act, with respect to services rendered prior to January 1, 1946, which are described in paragraph (16) of sections 1426(b) and 1607(c) of the Internal Revenue Code, as amended, and any such tax heretofore collected (included penalty and interest with respect thereto, if any) shall be refunded in accordance with the provisions of law applicable in the case of erroneous or illegal collection of the tax. No interest shall be allowed or paid on the amount of any such refund. No payment shall be made under title II of the Social Security Act with respect to services rendered prior to January 1, 1946, which are described in paragraph (16) of section 209(b) of such Act, as amended.

SEC. 6.[8] International organizations shall be exempt from all property taxes imposed by, or under the authority of, any Act of Congress, including such Acts as are applicable solely to the District of Columbia or the Territories.

SEC. 7.[9] (a) Persons designated by foreign governments to serve as their representatives in or to international organizations and the officers and employees of such organizations, and members of the immediate families of such representatives, officers, and employees residing with them, other than nationals of the United States, shall, insofar as concerns laws regulating entry into and departure from the United States, alien registration and fingerprinting, and the registration of foreign agents, be entitled to the same privileges, exemptions, and immunities as are accorded under similar circumstances to officers and employees, respectively, of foreign governments, and members of their families.

(b) Representatives of foreign governments in or to international organizations and officers and employees of such organizations

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[5] Sec. 4 amended title 26 of the U.S. Code at secs. 892, 893(a), 3121(b)(15), 3306(c)(16), 3401(a)(5), 4253(c), 4263(b), 4272A(d) (later repealed by sec. 4(a) of Public Law 85–475 (72 Stat. 260)), and 7701(a)(18).

[6] 42 U.S.C. 410(a)(15).

[7] 26 U.S.C. 3101 note, 42 U.S.C. 401 note.

[8] 22 U.S.C. 288c.

[9] 22 U.S.C. 288d.

shall be immune from suit and legal process relating to acts performed by them in their official capacity and falling within their functions as such representatives, officers, or employees except insofar as such immunity may be waived by the foreign government or international organization concerned.

(c)[10] Section 3 of the Immigration Act approved March 26, 1924, as amended (U.S.C., title 8, sec. 203), is hereby amended * * *

(d)[11] Section 15 of the Immigration Act approved May 26, 1924, as amended (U.S.C., title 8, sec. 215), is hereby amended to read as follows: * * *

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[10] Sec. 101(a)(15) of the Immigration and Nationality Act of June 27, 1952 (Public Law 82–414; 66 Stat. 167; 8 U.S.C. 1101(a)(15)) repealed and replaced sec. 3 of the Immigration Act of May 26, 1924 (Public Law 68–139; 43 Stat. 154). See sec. 101(a)(15)(G) of the Immigration and Nationality Act of June 27, 1952 (8 U.S.C. 1101(a)(15)(G)), which provides the following:

"(G)(i) a designated principal resident representative of a foreign government recognized de jure by the United States, which foreign government is a member of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunity Act (55 Stat. 669), accredited resident members of the staff of such representatives, and members of his or their immediate family;

"(ii) other accredited representatives of such a foreign government to such international organizations, and the members of their immediate families;

"(iii) an alien able to qualify under (i) or (ii) above except for the fact that the government of which such alien is an accredited representative is not recognized de jure by the United States, or that the government of which he is an accredited representative is not a member of such international organization, and the members of his immediate family;

"(iv) officers, or employees of such international organizations, and the members of their immediate families;

"(v) attendants, servants, and personal employees of any such representative, officer, or employee, and the members of the immediate families of such attendants, servants, and personal employees;".

Sec. 101(a)(15) established twenty-two categories of "nonimmigrant" aliens (aliens admitted to the United States on a temporary basis, not for permanent residence here, and therefore not subject to quota restrictions). These are: Class A, Foreign government officials; Class B, Temporary visitors; Class C, Transit aliens (including aliens entitled to pass in transit to and from the United Nations headquarters in New York City); Class D, Crewmen; Class E, Treaty traders and treaty investors; Class F, Students; Class G, International organizations personnel; Class H, Temporary workers with particular skills; Class I, Foreign correspondents; Class J, Participants in a program designated by the Director of the United States Information Agency; Class K, Fiancée or fiancé of a U.S. citizen entering to conclude a marriage, or one who has married a U.S. citizen; Class L, Temporary workers previously employed in the United States; Class M, Students in vocational training; Class N, Parent of an alien with special immigrant status; Class O, Person with extraordinary ability in science, art, education, business, or athletics, or that person's accompanist; Class P, Athlete or performer; Class Q, Cultural exchange participant; Class R, Member of religious denomination with organization in United States; Class S, Informant critical to Federal or State law enforcement officials or critical to investigation of terrorism; Class T, Person who is a victim of a severe form of trafficking in persons; Class U, Person who has suffered substantial physical or mental abuse of certain kinds; and Class V, Beneficiary of a certain petition.

[11] Secs. 102, 214, and 241 of the Immigration and Nationality Act of June 27, 1952 (Public Law 82–414; 66 Stat. 173, 189, 204; 8 U.S.C. 1102, 1184, 1251(e)) repealed and replaced sec. 15 of the Immigration Act of May 26, 1924 (Public Law 68–139; 43 Stat. 162; 8 U.S.C. 215). See sec. 102 of the Immigration and Nationality Act of June 27, 1952 (8 U.S.C. 1102), as amended, which provides the following:

"SEC. 102. Except as otherwise provided in this Act, for so long as they continue in the nonimmigrant classes enumerated in this section, the provisions of this Act relating to ineligibility to receive visas and the exclusion or deportation of aliens shall not be construed to apply to nonimmigrants—

"(1) within the class described in paragraph (15)(A)(i) of section 101(a), except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraph (15)(A)(i), and, under such rules and regulations as the President may deem to be necessary the provisions of subparagraphs (A) through (C) of section 212(a)(3);

"(2) within the class described in paragraph (15)(G)(i) of section 101(a), except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraph (15)(G)(i), and the provisions of subparagraphs (A) through (C) of section 212(a)(3); and

"(3) within the classes described in paragraphs (15)(A)(ii), (15)(G)(ii), (15)(G)(iii), or (15)(G)(iv) of section 101(a), except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraphs, and the provisions of subparagraphs (A) through (C) of section 212(a)(3).".

SEC. 8.[12] (a) No person shall be entitled to the benefits of this title unless he (1) shall have been duly notified to and accepted by the Secretary of State as a representative, officer, or employee; or (2) shall have been designated by the Secretary of State, prior to formal notification and acceptance as a prospective representative, officer, or employee; of (3) is a member of the family or suite or servant, of one of the foregoing accepted or designated representatives, officers, or employees.

(b) Should the Secretary of State determine that the continued presence in the United States of any person entitled to the benefits of this title is not desirable, he shall so inform the foreign government or international organization concerned, as the case may be, and after such person shall have had a reasonable length of time, to be determined by the Secretary of State, to depart from the United States, he shall cease to be entitled to such benefits.

(c) No person shall, by reason of the provisions of this title, be considered as receiving diplomatic status or as receiving any of the privileges incident thereto other than such as are specifically set forth herein.

SEC. 9.[13] The privileges, exemptions, and immunities of international organizations and of their officers and employees, and members of their families, suites, and servants, provided for in this title, shall be granted notwithstanding the fact that the similar privileges, exemptions, and immunities granted to a foreign government, its officers, or employees, may be conditioned upon the existence of reciprocity by that foreign government: *Provided,* That nothing contained in this title shall be construed as precluding the Secretary of State from withdrawing the privileges, exemptions, and immunities herein provided from persons who are nationals of any foreign country on the ground that such country is failing to accord corresponding privileges, exemptions, and immunities to citizens of the United States.

SEC. 10. This title may be cited as the "International Organizations Immunities Act."

SEC. 11.[14] The provisions of this title may be extended to the European Space Agency[15] and to the Organization of Eastern Caribbean States (including any office established in the United States by that organization)[16] in the same manner, to the same extent, and subject to the same conditions, as they may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

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Sec. 212 of the Immigration and Nationality Act of June 27, 1952 (8 U.S.C. 1182), set forth the various classes of aliens to be excluded from admission to the United States. See particularly sec. 212(a)(3), relating to security and related grounds.

[12] 22 U.S.C. 288e.

[13] 22 U.S.C. 288f.

[14] 22 U.S.C. 288f–1. Public Law 89–353 (80 Stat. 5) added sec. 11.

[15] Sec. 120 of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98–164; 97 Stat. 1023), struck out a reference to the European Space Research Organization and inserted in lieu thereof the reference to the European Space Agency.

[16] Public Law 100–362 (102 Stat. 819) added "and to the Organization of Eastern Caribbean States (including any office established in the United States by that organization)".

SEC. 12.[17] (a)[18] The provisions of this title may be extended to the African Union[19] and may continue to be extended to the International Labor Organization[20] and the United Nations Industrial Development Organization[21] in the same manner, to the same extent, and subject to the same conditions, as they may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

(b)[22] Under such terms and conditions as the President shall determine, consistent with the purposes of this title, the President is authorized to extend, or enter into an agreement to extend, to the African Union Mission to the United States of America, and to its members, the privileges and immunities enjoyed by diplomatic missions accredited to the United States, and by members of such missions, subject to corresponding conditions and obligations.

SEC. 13.[23] The International Committee of the Red Cross, in view of its unique status as an impartial humanitarian body named in the Geneva Conventions of 1949 and assisting in their implementation, shall be considered to be an international organization for the purposes of this title and may be extended the provisions of this title in the same manner, to the same extent, and subject to the same conditions, as such provisions may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

SEC. 14.[24] The International Union for Conservation of Nature and Natural Resources shall be considered to be an international organization for the purposes of this title and may be extended the provisions of this title in the same manner, to the same extent, and subject to the same conditions, as such provisions may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

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[17] 22 U.S.C. 288f–2. Public Law 93–161 (87 Stat. 635) added sec. 12.

[18] Sec. 7(a)(1) of the Department of State Authorities Act of 2006 (Public Law 109–472; 120 Stat. 3556) added "(a)" to create a subsection designation.

[19] Sec. 569(h) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D of the Consolidated Appropriations Act, 2005; Public Law 108–447; 118 Stat. 3026), struck out "Organization of African Unity" and inserted in lieu thereof "African Union". Sec. 8 of the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497; 118 Stat. 4019) made a duplicative amendment to this section.

[20] Sec. 404 of the Department of State Authorization Act, Fiscal Year 1980–81 (Public Law 96–60; 93 Stat. 403), added this reference to the International Labor Organization.

[21] Sec. 406 of the Department of State and Related Agencies Appropriations Act, 1999 (title IV of sec. 101(b) of Public Law 105–277; 112 Stat. 2681–101), inserted "and the United Nations Industrial Development Organization".

[22] Sec. 7(a)(2) of the Department of State Authorities Act of 2006 (Public Law 109–472; 120 Stat. 3556) added subsec. (b). In Executive Order 13444 of September 12, 2007 (72 F.R. 52747; September 14, 2007), the President extended diplomatic privileges and immunities to the African Union Mission to the United States.

[23] 22 U.S.C. 288f–3. Sec. 743 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1395), added sec. 13.

[24] 22 U.S.C. 288f–4. Sec. 426 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236; 108 Stat. 458), added sec. 14.

SEC. 15.[25] The provisions of this title may be extended to the European Central Bank in the same manner, to the same extent, and subject to the same conditions, as they may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

SEC. 16.[26] The provisions of this title may be extended to the Global Fund to Fight AIDS, Tuberculosis and Malaria in the same manner, to the same extent, and subject to the same conditions, as they may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

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[25] 22 U.S.C. 288f–5. Sec. 1 of Public Law 107–278 (116 Stat. 1939) added sec. 15.

[26] 22 U.S.C. 288f–6. Sec. 593 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (division D of the Consolidated Appropriations Act, 2004; Public Law 108–199; 118 Stat. 208), added sec. 16.

## b. Extending Certain Privileges to Representatives of Member States on the Council of the Organization of American States

**Public Law 82–486 [S. 2042], 66 Stat. 516, 22 U.S.C. 288g, approved July 10, 1952; as amended by Public Law 93–149 [H.R. 5943], 87 Stat. 560, approved November 7, 1973**

AN ACT To extend certain privileges to the representatives of member states and permanent observers to the Organization of American States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, under such terms and conditions as he shall determine, the President is hereby authorized to extend, or to enter into an agreement extending, to the representatives of member states (other than the United States) to the Organization of American States and to permanent observers to the Organization of American States, and to members of the staff of said representatives and permanent observers, the same privileges and immunities, subject to corresponding conditions and obligations, as are enjoyed by diplomatic envoys accredited to the United States.[1]

[1] Public Law 93–149 (87 Stat. 560) restated the text following the italicized introductory clause, which formerly read as follows: "That, under such terms and conditions as he shall determine, the President is hereby authorized to extend, or to enter into an agreement extending, to the representatives of member states (other than the United States) on the Council of the Organization of American States, and to members of their staffs, the same privileges and immunities, subject to corresponding conditions and obligations, as are enjoyed by diplomatic envoys accredited to the United States.".

## c. Extending Diplomatic Privileges to the Mission of the Commission of the European Communities

**Public Law 92–499 [S. 2700], 86 Stat. 815, 22 U.S.C. 288h, approved October 18, 1972; as amended by Public Law 100–204 [Foreign Relations Authorization Act, Fiscal Years 1988 and 1989; H.R. 1777], 101 Stat. 1331, approved December 22, 1987**

AN ACT To extend diplomatic privileges and immunities to the Mission to the United States of America of the Commission of the European Communities and to members thereof.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, under such terms and conditions as he shall determine and consonant with the purposes of this Act, the President is authorized to extend, or to enter into an agreement extending, to the Mission to the United States of America of the Commission of the European Communities, and to members thereof, the same privileges and immunities subject to corresponding conditions and obligations as are enjoyed by diplomatic missions accredited to the United States and by members thereof. Under such terms and conditions as the President may determine, the President is authorized to extend to other offices of the Commission of the European Communities which are established in the United States, and to members thereof—

(1) the privileges and immunities described in the preceding sentence; or

(2) as appropriate for the functioning of a particular office, privileges and immunities, equivalent to those accorded consular premises, consular offices, and consular employees, pursuant to the Vienna Convention on Consular Relations.[1]

[1] Sec. 741 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100–204; 101 Stat. 1394), added the last sentence.

## d. Extending Diplomatic Privileges to the Liaison Office of the People's Republic of China

**Public Law 93–22 [S. 1315], 87 Stat. 24, 22 U.S.C. 288i, approved April 20, 1973**

AN ACT To extend diplomatic privileges and immunities to the Liaison Office of the People's Republic of China and to members thereof, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:*

Under such terms and conditions as he shall determine and consonant with the purposes of this Act, the President is authorized to extend to the Liaison Office of the People's Republic of China in Washington and to the members thereof the same privileges and immunities subject to corresponding conditions and obligations as are enjoyed by diplomatic missions accredited to the United States and by members thereof.

## e. Extending Certain Privileges to the International Development Law Institute

**Partial text of Public Law 102–511 [FREEDOM Support Act of 1992; S. 2532], 106 Stat. 3320, approved October 24, 1992**

AN ACT To support freedom and open markets in the independent states of the former Soviet Union, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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## TITLE VIII—UNITED STATES INFORMATION AGENCY, DEPARTMENT OF STATE, AND RELATED AGENCIES AND ACTIVITIES

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**SEC. 805.[1] INTERNATIONAL DEVELOPMENT LAW INSTITUTE.**

For purposes of the International Organizations Immunities Act 922 U.S.C. 288 and following), the International Development Law Institute shall be considered to be a public international organization in which the United States participates under the authority of an Act of Congress authorizing such participation.

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[1] 22 U.S.C. 288j.

## f. Extending Certain Privileges to Hong Kong Economic and Trade Offices

**Public Law 105–22 [S. 342], 111 Stat. 236, approved June 27, 1997**

AN ACT To extend certain privileges, exemptions, and immunities to Hong Kong Economic and Trade Offices.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1.[1] EXTENSION OF CERTAIN PRIVILEGES, EXEMPTIONS, AND IMMUNITIES TO HONG KONG ECONOMIC AND TRADE OFFICES.**

(a) APPLICATION OF INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT.—The provisions of the International Organizations Immunities Act (22 U.S.C. 288 et seq.) may be extended to the Hong Kong Economic and Trade Offices in the same manner, to the same extent, and subject to the same conditions as such provisions may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.

(b) APPLICATION OF INTERNATIONAL AGREEMENT ON CERTAIN STATE AND LOCAL TAXATION.—The President is authorized to apply the provisions of Article I of the Agreement on State and Local Taxation of Foreign Employees of Public International Organizations, done at Washington on April 21, 1994, to the Hong Kong Economic and Trade Offices.

(c) DEFINITION.—The term "Hong Kong Economic and Trade Offices" refers to Hong Kong's official economic and trade missions in the United States.

[1] 22 U.S.C. 288k.

## g. Extending Diplomatic Privileges to the Permanent Observer Mission of the Holy See to the United Nations

**Partial text of Public Law 109–472 [Department of State Authorities Act of 2006; H.R. 6060], 120 Stat. 3554, approved January 11, 2007**

AN ACT To authorize certain activities by the Department of State, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1.[1] SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Department of State Authorities Act of 2006".

(b) * * *

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**SEC. 7. EXTENSION OF PRIVILEGES AND IMMUNITIES.**

(a) * * *

(b)[2] THE HOLY SEE.—Under such terms and conditions as the President shall determine, the President is authorized to extend, or to enter into an agreement to extend, to the Permanent Observer Mission of the Holy See to the United Nations in New York, and to its members, the privileges and immunities enjoyed by the diplomatic missions of member states to the United Nations, and their members, subject to corresponding conditions and obligations.

[1] 22 U.S.C. 2151 note.

[2] 22 U.S.C. 228*l*. In Executive Order 13427 of March 7, 2007 (72 F.R. 10879; March 9, 2007), the President extended diplomatic privileges and immunities to the Permanent Observer Mission of the Holy See to the United Nations.

## h. Protection and Prevention of Crimes Against Internationally Protected Persons

**Partial text of 18 United States Code; as amended by Public Law 92–539 [H.R. 15883], 86 Stat. 1070, approved October 24, 1972; Public Law 94–467 [H.R. 15552], 90 Stat. 1997, approved October 8, 1976; Public Law 95–163 [H.R. 6010], 91 Stat. 1286, approved November 9, 1977; Public Law 95–504 [S. 2493], 92 Stat. 1705, approved October 24, 1978; Public Law 98–473 [H.J. Res. 648], 98 Stat. 1837, approved October 12, 1984; Public Law 99–646 [S. 1236], 100 Stat. 3592, approved November 10, 1986; Public Law 101–647 [S. 3266], 104 Stat. 4789, approved November 29, 1990; Public Law 103–272 [H.R. 1758], 108 Stat. 745, approved July 5, 1994; Public Law 103–322 [H.R. 3355], 108 Stat. 1796, approved September 13, 1994; Public Law 104–132 [S. 735], 110 Stat. 1214, approved April 24, 1996; Public Law 104–294 [H.R. 3723], 110 Stat. 3488, approved October 11, 1996; and Public Law 105–314 [H.R. 3494], 112 Stat. 2974, approved October 30, 1998**

### § 112.[1, 2] Protection of foreign officials, official guests, and internationally protected persons

(a) Whoever assaults, strikes, wounds, imprisons, or offers violence to a foreign official, official guest, or internationally protected person or makes any other violent attack upon the person or liberty of such person, or, if likely to endanger his person or liberty, makes a violent attack upon his official premises, private accommodation, or means of transport or attempts to commit any of the foregoing shall be fined under this title[3] or imprisoned not more than three years, or both. Whoever in the commission of any such act uses a deadly or dangerous weapon, or inflicts bodily injury[4] shall be fined under this title[5] or imprisoned not more than ten years, or both.

(b) Whoever willfully—

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[1] The Act for the Protection of Foreign Officials and Official Guests of the United States (Public Law 92–539) enacted secs. 112 (86 Stat. 1072), 970 (86 Stat. 1073), 1116 (86 Stat. 1071), 1117 (86 Stat. 1071), and 1201 (86 Stat. 1072) of title 18, U.S. Code. Sec. 2 of that Act provided the following:

"SEC. 2. The Congress recognizes that from the beginning of our history as a nation, the police power to investigate, prosecute, and punish common crimes such as murder, kidnapping, and assault has resided in the several States, and that such power should remain with the States.

"The Congress finds, however, that harassment, intimidation, obstruction, coercion, and acts of violence committed against foreign officials or their family members in the United States or against official guests of the United States adversely affect the foreign relations of the United States.

"Accordingly, this legislation is intended to afford the United States jurisdiction concurrent with that of the several States to proceed against those who by such acts interfere with its conduct of foreign affairs.".

[2] Sec. 5 of Public Law 94–467 amended and restated sec. 112.

[3] Sec. 320101(b)(1) of Public Law 103–322 (108 Stat. 2108) struck out "not more than $5,000" and inserted in lieu thereof "under this title". Sec. 330016(1)(K) of the same Act made the same amendment. Sec. 604(b)(12)(A) of Public Law 104–294 (110 Stat. 3507) subsequently struck out sec. 320101(b)(1) of Public Law 103–322, but left the amendment intact due to language of sec. 330016(1)(K) of that Act.

[4] Sec. 320101(b)(2) of Public Law 103–322 (108 Stat. 2108) inserted ", or inflicts bodily injury".

[5] Sec. 320101(b)(3) of Public Law 103–322 (108 Stat. 2108) struck out "not more than $10,000" and inserted in lieu thereof "under this title".

(1) intimidates, coerces, threatens, or harasses a foreign official or an official guest or obstructs a foreign official in the performance of his duties;

(2) attempts to intimidate, coerce, threaten, or harass a foreign official or an official guest or obstruct a foreign official in the performance of his duties; or

(3) within the United States but outside the District of Columbia and within one hundred feet of any building or premises in whole or in part owned, used, or occupied for official business or for diplomatic, consular, or residential purposes by—

(A) a foreign government, including such use as a mission to an international organization;

(B) an international organization;

(C) a foreign official; or

(D) an official guest;

congregates with two or more other persons with intent to violate any other provision of this section;

shall be fined under this title[6] or imprisoned not more than six months, or both.

(c) For the purpose of this section "foreign government", "foreign official", "internationally protected person", "international organization", "national of the United States",[7] and "official guest" shall have the same meanings as those provided in section 1116(b) of this title.

(d) Nothing contained in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the first amendment to the Constitution of the United States.

(e) If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.[8] As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 46501(2) of title 49.[9]

(f) In the course of enforcement of subsection (a) and any other sections prohibiting a conspiracy or attempt to violate subsection (a), the Attorney General may request assistance from any Federal,

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[6] Sec. 330016(1)(G) of Public Law 103–322 (108 Stat. 2147) struck out "not more than $500" and inserted in lieu thereof "under this title".

[7] Sec. 721(d)(1) of Public Law 104–132 (110 Stat. 1298) inserted "'national of the United States,'" before "and".

[8] Sec. 721(d)(2) of Public Law 104–132 (110 Stat. 1298) struck out "If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender.", and inserted in lieu thereof "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

[9] Sec. 5(e)(2) of Public Law 103–272 (108 Stat. 1373) struck out "section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(38))." and inserted in lieu thereof "section 46501(2) of title 49.".

State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary, notwithstanding.

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## § 878.[10] Threats and extortion against foreign officials, official guests, or internationally protected persons

(a) Whoever knowingly and willfully threatens to violate section 112, 1116, or 1201[11] shall be fined under this title[12] or imprisoned not more than five years, or both, except that imprisonment for a threatened assault shall not exceed three years.

(b) Whoever in connection with any violation of subsection (a) or actual violation of section 112, 1116, or 1201 makes any extortionate demand shall be fined under this title[13] or imprisoned not more than twenty years, or both.

(c) For the purpose of this section "foreign official", "internationally protected person", "national of the United States",[14] and "official guest" shall have the same meanings as those provided in section 1116(a) of this title.

(d) If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.[15] As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of section 5 and 7 of this title and section 46501(2) of title 49.[16]

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## § 970.[1] Protection of property occupied by foreign governments

(a) Whoever willfully injures, damages, or destroys, or attempts to injure, damage, or destroy, any property, real or personal, located within the United States and belonging to or utilized or occupied by any foreign government or international organization, by a

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[10] Sec. 8 of Public Law 94–467 (90 Stat. 1997) added sec. 878.

[11] Sec. 705(a)(4) of Public Law 104–132 (110 Stat. 1295) struck out "by killing, kidnapping, or assaulting a foreign official, official guest, or internationally protected person" after ", or 1201".

[12] Sec. 330016(1)(K) of Public Law 103–322 (108 Stat. 2147) struck out "not more than $5,000" and inserted in lieu thereof "under this title".

[13] Sec. 330016(1)(N) of Public Law 103–322 (108 Stat. 2148) struck out "not more than $20,000" and inserted in lieu thereof "under this title".

[14] Sec. 721(e)(1) of Public Law 104–132 (110 Stat. 1299) inserted "'national of the United States,'" before "and".

[15] Sec. 721(e)(2) of Public Law 104–132 (110 Stat. 1299) struck out "If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender.", and inserted in lieu thereof "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

[16] Sec. 5(e)(2) of Public Law 103–272 (108 Stat. 1373) struck out "section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(38))." and inserted in lieu thereof "section 46501(2) of title 49.".

foreign official or official guest, shall be fined under this title,[17] or imprisoned not more than five years, or both.

(b)[18] Whoever, willfully with intent to intimidate, coerce, threaten, or harass—

(1) forcibly thrusts any part of himself or any object within or upon that portion of any building or premises located within the United States, which portion is used or occupied for official business or for diplomatic, consular, or residential purposes by—

(A) a foreign government, including such use as a mission to an international organization;

(B) an international organization;

(C) a foreign official; or

(D) an official guest; or

(2) refuses to depart from such portion of such building or premises after a request—

(A) by an employee of a foreign government or of an international organization, if such employee is authorized to make such request by the senior official of the unit of such government or organization which occupies such portion of such building or premises;

(B) by a foreign official or any member of the foreign official's staff who is authorized by the foreign official to make such request;

(C) by an official guest or any member of the official guest's staff who is authorized by the official guest to make such request; or

(D) by any person present having law enforcement powers;

shall be fined under this title[19] or imprisoned not more than six months, or both.

(c)[18] For the purpose of this section "foreign government", "foreign official", "international organization", and "official guest" shall have the same meanings as those provided in section 116(b) of this title.

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## § 1116.[1, 20] Murder or manslaughter of foreign officials, official guests, or internationally protected persons

(a) Whoever kills or attempts to kill a foreign official, official guest, or internationally protected person shall be punished as provided under sections 1111, 1112, and 1113 of this title.[21]

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[17] Sec. 330016(1)(L) of Public Law 103–322 (108 Stat. 2147) struck out "not more than $10,000" and inserted in lieu thereof "under this title".

[18] Sec. 7 of Public Law 94–467 added a new subsec. (b), amended and restated the old subsec. (b), and redesignated it as subsec. (c).

[19] Sec. 601(a)(2) of Public Law 104–294 (110 Stat. 3498) struck out "fined not more than $500" and inserted in lieu thereof "fined under this title".

[20] Sec. 2 of Public Law 94–467 amended and restated sec. 1116.

[21] Sec. 60003(a)(5) of Public Law 103–322 (108 Stat. 1969) struck out "any such person who if found guilty of murder in the first degree shall be sentenced to imprisonment for life, and" from this point. Sec. 330006 of the same Act (108 Stat. 2142) struck out ", and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years", effecting a repetitive deletion of the shared ", and" in the two passages. The subsection formerly read as follows:

Continued

(b) For the purposes of this section:

(1) "Family" includes (a) a spouse, parent, brother or sister, child, or person to whom the foreign official of internationally protected person stands in loco parentis, or (b) any other person living in his household and related to the foreign official or internationally protected person by blood or marriage.

(2) "Foreign government" means the government of a foreign country, irrespective of recognition by the United States.

(3) "Foreign official" means—

(A) a Chief of State or the political equivalent, President, Vice President, Prime Minister, Ambassador, Foreign Minister, or other officer of Cabinet rank or above of a foreign government or the chief executive officer of an international organization, or any person who has previously served in such capacity, and any member of his family, while in the United States; and

(B) any person of a foreign nationality who is duly notified to the United States as an officer or employee of a foreign government or international organization, and who is in the United States on official business, and any member of his family whose presence in the United States is in connection with the presence of such officer or employee.

(4) "Internationally protected person" means—

(A) a Chief of State or the political equivalent, head of government, or Foreign Minister whenever such person is in a country other than his own and any member of his family accompanying him; or

(B) any other representative, officer, employee, or agent of the United States Government, a foreign government, or international organization who at the time and place concerned is entitled pursuant to international law to special protection against attack upon his person, freedom, or dignity, and any member of his family then forming part of his household.

(5) "International organization" means a public international organization designated as such pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288) or a public organization created pursuant to treaty or other agreement under international law as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs.[22]

(6) "Official guest" means a citizen or national of a foreign country present in the United States as an official guest of the Government of the United States pursuant to designation as such by the Secretary of State.

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"(a) Whoever kills or attempts to kill a foreign official, official guest, or internationally protected person shall be punished as provided under sections 1111, 1112, and 1113 of this title, except that any such person who if found guilty of murder in the first degree shall be sentenced to imprisonment for life, and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years.".

Sec. 601(g)(2) of Public Law 104–294 (110 Stat. 3500) subsequently struck out ", except that" after "of this title".

[22] Sec. 3 of Public Law 97–351 (96 Stat. 1666) added "or a public organization created pursuant to treaty or other agreement under international law as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs".

(7)[23] "National of the United States" has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(c) If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.[24] As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 46501(2) of title 49.[25]

(d) In the course of enforcement of this section and any other sections prohibiting a conspiracy or attempt to violate this section, the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.

### § 1117.[1] Conspiracy to murder

If two or more persons conspire to violate section 1111, 1114, 1116, or 1119[26] of this title, and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life.

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### § 1201.[1] Kidnapping[27]

(a) Whoever unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away and holds for ransom or reward or otherwise any person, except in the case of a minor by the parent thereof, when—[28]

(1) the person is willfully transported in interstate or foreign commerce, regardless of whether the person was alive when transported across a State boundary, or the offender travels in interstate or foreign commerce or uses the mail or any means, facility, or instrumentality of interstate or foreign commerce in

[23] Sec. 721(c)(1) of Public Law 104–132 (110 Stat. 1298) added para. (7). Sec. 101(a)(22) of the Immigration and Nationality Act defines the term as "(A) a citizen of the United States, or (B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.".

[24] Sec. 721(b)(2) of Public Law 104–132 (110 Stat. 1298) struck out "If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States, irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender." and inserted in lieu thereof "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

[25] Sec. 5(e)(2) of Public Law 103–272 (108 Stat. 1373) struck out "section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(38))" and inserted in lieu thereof "section 46501(2) of title 49".

[26] Sec. 60009(b)(1) of Public Law 103–322 (108 Stat. 1972) added reference to sec. 1119, which relates to foreign murder of U.S. nationals by U.S. nationals.

[27] Sec. 330021 of Public Law 103–322 (108 Stat. 2150) changed the spelling of "kidnaping" and "kidnaped" throughout title 18, U.S. Code.

[28] Sec. 36 of Public Law 99–646 (100 Stat. 3599) struck out "when:" and inserted in lieu thereof "when—".

committing or in furtherance of the commission of the offense;[29]

(2) any such act against the persons is done within the special maritime and territorial jurisdiction of the United States;

(3) any such act against the person is done within the special aircraft jurisdiction of the United States as defined in section 46501 of title 49;[30]

(4)[31] the person is a foreign official, an internationally protected person, or an official guest as those terms are defined in section 1116(b) of this title; or

(5)[32] the person is among those officers and employees described[33] in section 1114 of this title and any such act against the person is done while the person is engaged in, or on account of, the performance of official duties;

shall be punished by imprisonment for any term of years or for life and, if the death of any person results, shall be punished by death or life imprisonment.[34]

(b) With respect to subsection (a)(1), above, the failure to release the victim within twenty-four hours after he shall have been unlawfully seized, confined, inveigled, decoyed, kidnapped,[27] abducted, or carried away shall create a rebuttable presumption that such person has been transported in interstate[35] or foreign commerce. Notwithstanding the preceding sentence, the fact that the presumption under this section has not yet taken effect does not preclude a Federal investigation of a possible violation of this section before the 24-hour period has ended.[36]

(c) If two or more persons conspire to violate this section and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life.

(d)[37] Whoever attempts to violate subsection (a)[38] shall be punished by imprisonment for not more than twenty years.

(e)[37] If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United

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[29] Sec. 702(a) of the Protection of Children from Sexual Predators Act of 1998 (Public Law 105–314; 112 Stat. 2987) inserted ", regardless of whether the person was alive when transported across a State boundary if the person was alive when the transportation began". Subsequently, sec. 213(1) of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109–248; 120 Stat. 616) struck out "if the person was alive when the transportation began" and inserted in lieu thereof ", or the offender travels in interstate or foreign commerce or uses the mail or any means, facility, or instrumentality of interstate or foreign commerce in committing or in furtherance of the commission of the offense".

[30] Sec. 5(e)(8) of Public Law 103–272 (108 Stat. 1374) struck out "section 101(38) of the Federal Aviation Act of 1958; or" and inserted in lieu thereof "section 46501 of title 49;".

[31] Sec. 4(a) of Public Law 94–467 amended and restated para. (4).

[32] Sec. 1007 of Public Law 98–473 (98 Stat. 2139) added para. (5). Sec. 36 of Public Law 99–646 (100 Stat. 3599) made technical corrections to the paragraph.

[33] Sec. 702(b) of the Protection of Children from Sexual Predators Act of 1998 (Public Law 105–314; 112 Stat. 2987) struck out "designated" and inserted in lieu thereof "described".

[34] Sec. 600003(a)(6) of Public Law 103–322 (108 Stat. 1969) inserted "and, if the death of any person results, shall be punished by death or life imprisonment" after "or for life".

[35] Sec. 213(2) of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109–248; 120 Stat. 617) purported to strike out "to interstate" in subsec. (b) and to insert in lieu thereof "in interstate". Subsec. (b), however, already read "in interstate" at the time of this amendment.

[36] Sec. 702(c) of the Protection of Children from Sexual Predators Act of 1998 (Public Law 105–314; 112 Stat. 2987) added this sentence.

[37] Sec. 4(b) of Public Law 94–467 added subsecs. (d), (e), and (f).

[38] Sec. 320903(b) of Public Law 103–322 (108 Stat. 2124) struck out "Whoever attempts to violate subsection (a)(4) or (a)(5)", and inserted in lieu thereof "Whoever attempts to violate subsection (a)".

States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.[39] As used in this subsection, the United States includes all areas under the jurisdiction of the United States including any of the places within the provisions of section 5 and 7 of this title and section 46501(2) of title 49.[40] For purposes of this subsection, the term "national of the United States" has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).[41]

(f)[37] In the course of enforcement of subsection (a)(4) and any other sections prohibiting a conspiracy or attempt to violate subsection (a)(4), the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.".

(g) * * *

(h) * * *

[39] Sec. 721(f)(1) of Public Law 104–132 (110 Stat. 1299) struck out "If the victim of an offense under subsection (a) is an internationally protected person, the United States may exercise jurisdiction over the offense if the alleged offender is present within the United States irrespective of the place where the offense was committed or the nationality of the victim or the alleged offender." and inserted in lieu thereof "If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.".

[40] Sec. 5(e)(2) of Public Law 103–272 (108 Stat. 1373) struck out "section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(34))." and inserted in lieu thereof "section 46501(2) of title 49.".

[41] Sec. 721(f)(2) of Public Law 104–132 (110 Stat. 1299) added the last sentence. See footnote 23 for definition.

## i. U.S. Secret Service

### (1) Protection of Foreign Diplomatic Missions by the U.S. Secret Service

**Partial text of 18 U.S.C. 3056A (added by the Secret Service Authorization and Technical Modification Act of 2005; title VI of Public Law 109–177; 120 Stat. 251; 18 U.S.C. 1 note), approved March 9, 2006**

### § 3056A.[1] Powers, authorities, and duties of United States Secret Service Uniformed Division

(a) There is hereby created and established a permanent police force, to be known as the "United States Secret Service Uniformed Division". Subject to the supervision of the Secretary of Homeland Security, the United States Secret Service Uniformed Division shall perform such duties as the Director, United States Secret Service, may prescribe in connection with the protection of the following:

(1)–(4) * * *

(5) Foreign diplomatic missions located in the metropolitan area of the District of Columbia.

(6) * * *

(7)[2] Foreign diplomatic missions located in metropolitan areas (other than the District of Columbia) in the United States where there are located twenty or more such missions headed by full-time officers, except that such protection shall be provided only—

(A) on the basis of extraordinary protective need;

(B) upon request of an affected metropolitan area; and

(C) when the extraordinary protective need arises at or in association with a visit to—

(i) a permanent mission to, or an observer mission invited to participate in the work of, an international organization of which the United States is a member; or

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[1] Sec. 605(a) of the Secret Service Authorization and Technical Modification Act of 2005 (title VI of Public Law 109–177; 120 Stat. 253) added this section. This section replaces the provisions of, among others, former secs. 202 and 208 of 3 U.S.C., which also concerned protection of foreign diplomatic missions by the U.S. Secret Service and reimbursement of state and local governments for their expenses in connection with such protection activities. Sec. 605(c) of Public Law 109–177 repealed chapter 3 of 3 U.S.C., which included former secs. 202 and 208.

Sec. 606(b) of Public Law 109–177 (120 Stat. 256; 18 U.S.C. 3056A note) provides the following:

"(b) This title does not affect any Executive order transferring to the Secretary of State the authority of section 208 of title 3 (now section 3056A(d) of title 18) in effect on the day before the effective date of this Act.".

[2] Sec. 135(b)(5) of Public Law 102–138 provided the following:

"Protective services provided by a State or local government at any time during the period beginning on January 1, 1989, and ending on September 30, 1991, which were performed in connection with visits described in section 202(8) of title 3, United States Code, as amended by this subsection [visits now covered by sec. 3056A(a)(7) of 18 U.S.C.], shall be deemed to be reimbursement obligations entered into pursuant to section 208(a) of that title as if the amendment made by paragraph (1) of this subsection (amending this section) was in effect during that period and the services had been requested by the Secretary of State.".

(ii) an international organization of which the United States is a member;

except that such protection may also be provided for motorcades and at other places associated with any such visit and may be extended at places of temporary domicile in connection with any such visit.

(8) Foreign consular and diplomatic missions located in such areas in the United States, its territories and possessions, as the President, on a case-by-case basis, may direct.

(9) Visits of foreign government officials to metropolitan areas (other than the District of Columbia) where there are located twenty or more consular or diplomatic missions staffed by accredited personnel, including protection for motorcades and at other places associated with such visits when such officials are in the United States to conduct official business with the United States Government.

(10)–(12) * * *

(13) Visiting heads of foreign states or foreign governments.

(b)(1) * * *

(2) Members of the United States Secret Service Uniformed Division shall possess privileges and powers similar to those of the members of the Metropolitan Police of the District of Columbia.

(c) * * *

(d) In carrying out the functions pursuant to paragraphs (7) and (9) of subsection (a), the Secretary of Homeland Security may utilize, with their consent, on a reimbursable basis, the services, personnel, equipment, and facilities of State and local governments, and is authorized to reimburse such State and local governments for the utilization of such services, personnel, equipment, and facilities. The Secretary of Homeland Security may carry out the functions pursuant to paragraphs (7) and (9) of subsection (a) by contract. The authority of this subsection may be transferred by the President to the Secretary of State. In carrying out any duty under paragraphs (7) and (9) of subsection (a), the Secretary of State is authorized to utilize any authority available to the Secretary under title II of the State Department Basic Authorities Act of 1956.

## (2) Transfer of Authority to the Secretary of State To Make Reimbursements for Protection of Foreign Missions to International Organizations

**Executive Order 12478, May 23, 1984, 49 F.R. 22053**

By authority vested in me as President by the Constitution and statutes of the United States of America, and in accordance with the provisions of the Act of December 31, 1975, Public Law 94–196 (89 Stat. 1109), codified as sections 202(7) and 208(a) of Title 3, United States Code, as amended, it is hereby ordered as follows:

**Section 1.** There is transferred to the Secretary of State authority to determine the need for and to approve terms and conditions of the provision of reimbursable extraordinary protective activities for foreign diplomatic missions pursuant to section 202(7), and the authority to make reimbursements to State and local governments for services, personnel, equipment, and facilities pursuant to section 208(a) of Title 3, United States Code; [1]

**Sec. 2.** There are transferred to the Secretary of State such unexpended moneys as may have been appropriated to the Department of the Treasury for the purpose of permitting reimbursements to be made under the provisions of section 208(a) of Title 3, United States Code;

**Sec. 3.** The authority transferred pursuant to this Order shall be exercised in coordination with protective security programs administered by the Secretary of State under the Foreign Missions Act of 1982; authority available under that Act may also be applied to any foreign mission to which section 202(7) applies; and

**Sec. 4.** This Order shall be effective on October 1, 1984.

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[1] Sec. 605(a) of the Secret Service Authorization and Technical Modification Act of 2005 (title VI of Public Law 109–177; 120 Stat. 253) added 18 U.S.C. 3056A, which replaced former secs. 202 and 208 of 3 U.S.C.

Sec. 606(b) of that Act (120 Stat. 256; 18 U.S.C. 3056A note) provides the following:

"(b) This title does not affect any Executive order transferring to the Secretary of State the authority of section 208 of title 3 (now section 3056A(d) of title 18) in effect on the day before the effective date of this Act.".

## j. Foreign Sovereign Immunities

**Partial text of title 28, U.S. Code, as added by Public Law 94–583 [H.R. 11315], 90 Stat. 2891, approved October 21, 1976; as amended by Public Law 100–640 [Foreign Sovereign Immunities Act, Amendments; H.R. 1149], 102 Stat. 3333, approved November 9, 1988; Public Law 100–669 [Implementation of the Inter-American Convention on International Commercial Arbitration Act; S. 2204], 102 Stat. 3969, approved November 16, 1988; Public Law 100–702 [Judicial Improvements and Access to Justice Act; H.R. 4807], 102 Stat. 4642, approved November 19, 1988; Public Law 104–114 [Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996; H.R. 927], 110 Stat. 785, approved March 12, 1996; Public Law 104–132 [Antiterrorism and Effective Death Penalty Act of 1996; S. 735], 110 Stat. 1214, approved April 24, 1996; Public Law 105–11 [H.R. 1225], 111 Stat. 22, approved April 25, 1997; Public Law 106–386 [Victims of Trafficking and Violence Protection Act of 2000; H.R. 3244], 114 Stat. 1464, approved October 28, 2000; Public Law 107–77 [Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002; H.R. 2500], 115 Stat. 748, approved November 28, 2001; Public Law 107–297 [Terrorism Risk Insurance Act of 2002; H.R. 3210], 116 Stat. 2322, approved November 26, 2002; and Public Law 109–2 [Class Action Fairness Act of 2005; S. 5], 119 Stat. 4, approved February 18, 2005**

### § 1330. Actions against foreign states

(a) The district courts shall have original jurisdiction without regard to amount in controversy of any nonjury civil action against a foreign state as defined in section 1603(a) of this title as to any claim for relief in personae with respect to which the foreign state is not entitled to immunity either under sections 1605–1607 of this title or under any applicable international agreement.

(b) Personal jurisdiction over a foreign state shall exist as to every claim for relief over which the district courts have jurisdiction under subsection (a) where service has been made under section 1608 of this title.

(c) For purposes of subsection (b), an appearance by a foreign state does not confer personal jurisdiction with respect to any claim for relief not arising out of any transaction or occurrence enumerated in sections 1605–1607 of this title.

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## Chapter 97.—JURISDICTIONAL IMMUNITIES OF FOREIGN STATES

Sec.
1602. Findings and declaration of purpose.
1603. Definitions.
1604. Immunity of a foreign state from jurisdiction.
1605. General exceptions to the jurisdictional immunity of a foreign state.
1606. Extent of liability.
1607. Counterclaims.
1608. Service; time to answer default.
1609. Immunity from attachment and execution of property of a foreign state.
1610. Exceptions to the immunity from attachment or execution.
1611. Certain types of property immune from execution.

## § 1602. Findings and declaration of purpose

The Congress finds that the determination by United States courts of the claims of foreign states to immunity from the jurisdiction of such courts would serve the interests of justice and would protect the rights of both foreign states and litigants in United States courts. Under international law, states are not immune from the jurisdiction of foreign courts insofar as their commercial activities are concerned, and their commercial property may be levied upon for the satisfaction of judgments rendered against them in connection with their commercial activities. Claims of foreign states to immunity should henceforth be decided by courts of the United States and of the States in conformity with the principles set forth in this chapter.

## § 1603. Definitions

For purposes of this chapter—

(a) A "foreign state", except as used in section 1608 of this title, includes a political subdivision of a foreign state or an agency or instrumentality of a foreign state as defined in subsection (b).

(b) An "agency or instrumentality of a foreign state" means any entity—

(1) which is a separate legal person, corporate or otherwise, and

(2) which is an organ of a foreign state or political subdivision thereof, or a majority of whose shares or other ownership interest is owned by a foreign state or political subdivision thereof, and

(3) which is neither a citizen of a State of the United States as defined in section 1332 (c) and (e)[1] of this title, nor created under the laws of any third country.

(c) The "United States" includes all territory and waters, continental or insular, subject to the jurisdiction of the United States.

(d) A "commercial activity" means either a regular course of commercial conduct or a particular commercial transaction or act. The commercial character of an activity shall be determined by reference to the nature of the course of conduct or particular transaction or act, rather than by reference to its purpose.

(e) A "commercial activity carried on in the United States by a foreign state" means commercial activity carried on by such state and having substantial contact with the United States.

## § 1604. Immunity of a foreign state from jurisdiction

Subject to existing international agreements to which the United States is a party at the time of enactment of this Act a foreign state shall be immune from the jurisdiction of the courts of the United States and of the States except as provided in sections 1605 to 1607 of this chapter.

[1] Sec. 4(b)(2) of the Class Action Fairness Act of 2005 (Public Law 109–2; 119 Stat. 12) struck out "(d)" and inserted in lieu thereof "(e)".

## § 1605.[2] General exceptions to the jurisdictional immunity of a foreign state

(a) A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case—

(1) in which the foreign state has waived its immunity either explicitly or by implication, notwithstanding any withdrawal of the waiver which the foreign state may purport to effect except in accordance with the terms of the waiver;

(2) in which the action is based upon a commercial activity carried on in the United States by the foreign state; or upon an act performed in the United States in connection with a commercial activity of the foreign state elsewhere; or upon an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that act causes a direct effect in the United States;

(3) in which rights in property taken in violation of international law are in issue and the property or any property exchanged for such property is present in the United States in connection with a commercial activity carried on in the United States by the foreign state; or that property or any property exchanged for such property is owned or operated by an agency or instrumentality of the foreign state and that agency or instrumentality is engaged in a commercial activity in the United States;

(4) in which rights in property in the United States acquired by succession or gift or rights in immovable property situated in the United States are in issue;[3]

(5) not otherwise encompassed in paragraph (2) above, in which money damages are sought against a foreign state for personal injury or death, or damage to or loss of property, occurring in the United States and caused by the tortious act or omission of that foreign state or of any official or employee of that foreign state while acting within the scope of his office or employment; except this paragraph shall not apply to—

(A) any claim based upon the exercise on performance or the failure to exercise or perform a discretionary function regardless of whether the discretion be abused, or

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[2] Sec. 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (sec. 101(c) of title I of Public Law 104–208; 110 Stat. 3009) provided the following:

"CIVIL LIABILITY FOR ACTS OF STATE SPONSORED TERRORISM

"SEC. 589. (a) an official, employee, or agent of a foreign state designated as a state sponsor of terrorism designated under section 6(j) of the Export Administration Act of 1979 while acting within the scope of his or her office, employment, or agency shall be liable to a United States national or the national's legal representative for personal injury or death caused by acts of that official, employee, or agent for which the courts of the United States may maintain jurisdiction under section 1605(a)(7) of title 28, United States Code, for money damages which may include economic damages, solatium, pain, and suffering, and punitive damages if the acts were among those described in section 1605(a)(7).

"(b) Provisions related to statute of limitations and limitations on discovery that would apply to an action brought under 28 U.S.C. 1605(f) and (g) shall also apply to actions brought under this section. No action shall be maintained under this action if an official, employee, or agent of the United States, while acting within the scope of his or her office, employment, or agency would not be liable for such acts if carried out within the United States.".

[3] Sec. 2 of Public Law 100–669 (102 Stat. 3969) struck out "or" at the end of para. (4), ended para. (5)(B) with "; or", and inserted a new para. (6).

(B) any claim arising out of malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights;[3, 4]

(6)[3] in which the action is brought, either to enforce an agreement made by the foreign state[5] with or for the benefit of a private party to submit to arbitration all or any difference which have arisen or which may arise between the parties with respect to a defined legal relationship, whether contractual or not, concerning a subject matter capable of settlement by arbitration under the laws of the United States, or to confirm an award made pursuant to such an agreement to arbitrate, if (A) the arbitration takes place or is intended to take place in the United States, (B) the agreement or award is or may be governed by a treaty or other international agreement in force for the United States calling for the recognition and enforcement of arbitral awards, (C) the underlying claim, save for the agreement to arbitrate, could have been brought in a United States court under this section or section 1607, or (D) paragraph (1) of this subsection is otherwise applicable; or[4]

(7)[4] not otherwise covered by paragraph (2), in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency, except that the court shall decline to hear a claim under this paragraph—

(A) if the foreign state was not designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) at the time the act occurred, unless later so designated as a result of such act or the act is related to Case Number 1:00CV03110(EGS) in the United States District Court for the District of Columbia;[6] and

(B) even if the foreign state is or was so designated, if—

(i) the act occurred in the foreign state against which the claim has been brought and the claimant has not afforded the foreign state a reasonable opportunity to arbitrate the claim in accordance with accepted international rules of arbitration; or

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[4] Sec. 221(a)(1)(A) of Public Law 104–132 (110 Stat. 1241) struck out "or" at the end of para. (5). Sec. 221(a)(1)(B) of that Act struck out a period at the end of para. (6) and inserted in lieu thereof "; or". Sec. 221(a)(1)(C) added a new para. (7).

[5] Sec. 325(b)(8) of Public Law 101–650 (104 Stat. 5121) struck out "State" and inserted in lieu thereof "state".

[6] Sec. 626(c) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002 (Public Law 107–77; 115 Stat. 803) added "or the act is related to Case Number 1:00CV03110(ESG) in the United States District Court for the District of Columbia". Sec. 208 of the Emergency Supplemental Act, 2002 (division B of the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002; Public Law 107–117; 115 Stat. 2299) subsequently amended sec. 626(c) of Public Law 107–77 itself, by striking out "1:00CV03110(ESG)" and inserting in lieu thereof "1:00CV03110(EGS)".

(ii) neither the claimant nor the victim was[7] a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act) when the act upon which the claim is based occurred.

(b) A foreign state shall not be immune from the jurisdiction of the courts of the United States in any case in which a suit in admiralty is brought to enforce a maritime lien against a vessel or cargo of the foreign state, which maritime lien is based upon a commercial activity of the foreign state: *Provided,* That—

(1) notice of the suit is given by delivery of a copy of the summons and of the complaint to the person, or his agent, having possession of the vessel or cargo against which the maritime lien is asserted; and if the vessel or cargo is arrested pursuant to process obtained on behalf of the party bringing the suit, the service of process of arrest shall be deemed to constitute valid delivery of such notice, but the party bringing the suit shall be liable for any damages sustained by the foreign state as a result of the arrest if the party bringing the suit had actual or constructive knowledge that the vessel or cargo of a foreign state was involved; and[8]

(2) notice to the foreign state of the commencement of suit as provided in section 1608 of this title is initiated within ten days either of the delivery of notice as provided in paragraph (1) of this subsection[9] or, in the case of a party who was unaware that the vessel or cargo of a foreign state was involved, of the date such party determined the existence of the foreign state's interest.

(c)[10] Whenever notices is delivered under subsection (b)(1), the suit to enforce a maritime lien shall be thereafter proceed and shall be heard and determined according to the principles of law and rules of practice of suits in rem whenever it appears that, had the vessel been privately owned and possessed, a suit in rem might have been maintained. A decree against the foreign state may include costs of the suit and, if the decree is for a money judgment, interest as ordered by the court, except that the court may not award judgment against the foreign state in an amount greater than the value of the vessel or cargo upon which the maritime lien arose. Such value shall be determined as of the time notice is served under subsection (b)(1). Decrees shall be subject to appeal

[7] Public Law 105–11 (111 Stat. 22) struck out "the claimant or victim was not" and inserted in lieu thereof "neither the claimant nor the victim was".

[8] Sec. 1(1) of Public Law 100–640 (102 Stat. 3333) inserted text to this point from the semicolon, and struck out the following: "but such notice shall not be deemed to have been delivered, nor may it thereafter be delivered, if the vessel or cargo is arrested pursuant to process obtained on behalf of the party bringing the suit—unless the party was unaware that the vessel or cargo of a foreign state was involved, in which event the service of process of arrest shall be deemed to constitute valid delivery of such notice; and".

[9] Sec. 1(2) of Public Law 100–640 (102 Stat. 3333) struck out "subsection (b)(1) of this section" and inserted in lieu thereof "paragraph (1) of this subsection".

[10] Sec. 1(3) of Public Law 100–640 struck out all that followed para. (2) in this section and inserted a new subsec. (c) and (d). The struck out text read as follows:

"Whenever notice is delivered under subsection (b)(1) of this section, the maritime lien shall thereafter be deemed to be an in personam claim against the foreign state which at that time owns the vessel or cargo involved: *Provided,* That a court may not award judgment against the foreign state in an amount greater than the value of the vessel or cargo upon which the maritime lien arose, such value to be determined as of the time notice is served under subsection (b)(1) of this section.".

and revision as provided in other cases of admiralty and maritime jurisdiction. Nothing shall preclude the plaintiff in any proper case from seeking relief in personam in the same action brought to enforce a maritime lien as provided in this section.

(d)[10] A foreign state shall not be immune from the jurisdiction of the courts of the United States in any action brought to foreclose a preferred mortgage, as defined in the Ship Mortgage Act, 1920 (46 U.S.C. 911 and following). Such action shall be brought, heard, and determined in accordance with the provisions of that Act and in accordance with the principles of law and rules of practice of suits in rem, whenever it appears that had the vessel been privately owned and possessed a suit in rem might have been maintained.

(e)[11] For purposes of paragraph (7) of subsection (a)—

(1) the terms "torture" and "extrajudicial killing" have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991;

(2) the term "hostage taking" has the meaning given that term in Article 1 of the International Convention Against the Taking of Hostages; and

(3) the term "aircraft sabotage" has the meaning given that term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.

(f)[11] No action shall be maintained under subsection (a)(7) unless the action is commenced not later than 10 years after the date on which the cause of action arose. All principles of equitable tolling, including the period during which the foreign state was immune from suit, shall apply in calculating this limitation period.

(g)[11] LIMITATION ON DISCOVERY.—

(1) IN GENERAL.—(A) Subject to paragraph (2), if an action is filed that would otherwise be barred by section 1604, but for subsection (a)(7), the court, upon request of the Attorney General, shall stay any request, demand, or order for discovery on the United States that the Attorney General certifies would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action, until such time as the Attorney General advises the court that such request, demand, or order will no longer so interfere.

(B) A stay under this paragraph shall be in effect during the 12-month period beginning on the date on which the court issues the order to stay discovery. The court shall renew the order to stay discovery for additional 12-month periods upon motion by the United States if the Attorney General certifies that discovery would significantly interfere with a criminal investigation or prosecution, or a national security operation, related to the incident that gave rise to the cause of action.

(2) SUNSET.—(A) Subject to subparagraph (B), no stay shall be granted or continued in effect under paragraph (1) after the date that is 10 years after the date on which the incident that gave rise to the cause of action occurred.

[11] Sec. 221(a)(2) of Public Law 104–132 (110 Stat. 1241) added subsecs. (e) through (g).

(B) After the period referred to in subparagraph (A), the court, upon request of the Attorney General, may stay any request, demand, or order for discovery on the United States that the court finds a substantial likelihood would—

(i) create a serious threat of death or serious bodily injury to any person;

(ii) adversely affect the ability of the United States to work in cooperation with foreign and international law enforcement agencies in investigating violations of United States law; or

(iii) obstruct the criminal case related to the incident that gave rise to the cause of action or undermine the potential for a conviction in such case.

(3) EVALUATION OF EVIDENCE.—The court's evaluation of any request for a stay under this subsection filed by the Attorney General shall be conducted ex parte and in camera.

(4) BAR ON MOTIONS TO DISMISS.—A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure.

(5) CONSTRUCTION.—Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States.

## § 1606. Extent of liability

As to any claim for relief with respect to which a foreign state is not entitled to immunity under section 1605 or 1607 of this chapter, the foreign state shall be liable in the same manner and to the same extent as a private individual under like circumstances; but a foreign state except for an agency or instrumentality thereof shall not be liable for punitive damages;[12] if, however, in any case wherein death was caused, the law of the place where the action or omission occurred provides, or has been construed to provide, for damages only punitive in nature, the foreign state shall be liable for actual or compensatory damages measured by the pecuniary injuries resulting from such death which were incurred by the persons for whose benefit the action was brought.

## § 1607. Counterclaims

In any action brought by a foreign state, or in which a foreign state intervenes, in a court of the United States or of a State, the foreign state shall not be accorded immunity with respect to any counterclaim—

(a) for which a foreign state would not be entitled to immunity under section 1605 of this chapter had such claim been brought in a separate action against the foreign state; or

(b) arising out of the transaction or occurrence that is the subject matter of the claim of the foreign state; or

[12] Sec. 117(b) of the Treasury Department Appropriations Act, 1999 (sec. 101(h) of Public Law 105–277; 112 Stat. 2681–491) inserted ", except any action under section 1605(a)(7) or 1610(f)" after "punitive damages". Sec. 2002(f)(2) of Public Law 106–386 (114 Stat. 1543), however, subsequently repealed sec. 117(b) of Public Law 105–277. Sec. 201(c)(3) of the Terrorism Risk Insurance Act of 2002 (Public Law 107–297; 116 Stat. 2337) redesignated sec. 2002(f)(2) of Public Law 106–386 as sec. 2002(g)(2).

(c) to the extent that the counterclaim does not seek relief exceeding in amount or differing in kind from that sought by the foreign state.

## § 1608. Service; time to answer; default

(a) Service in the courts of the United States and of the States shall be made upon a foreign state or political subdivision of a foreign state:

(1) by delivery of a copy of the summons and complaint in accordance with any special arrangement for service between the plaintiff and the foreign state or political subdivision; or

(2) if no special arrangement exists, by delivery of a copy of the summons and complaint in accordance with an applicable international convention on service of judicial documents; or

(3) if service cannot be made under paragraph (1) or (2), by sending a copy of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the head of the ministry of foreign affairs of the foreign state concerned, or

(4) if service cannot be made within 30 days under paragraph (3), by sending two copies of the summons and complaint and a notice of suit, together with a translation of each into the official language of the foreign state, by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the Secretary of State in Washington, District of Columbia, to the attention of the Director of Special Consular Services—and the Secretary shall transmit one copy of the papers through diplomatic channels to the foreign state and shall send to the clerk of the court a certified copy of the diplomatic note indicating when the papers were transmitted.

As used in this subsection, a "notice of suit" shall mean a notice addressed to a foreign state and in a form prescribed by the Secretary of Safety regulation.

(b) Service in the courts of the United States and of the States shall be made upon an agency or instrumentality of a foreign state:

(1) by delivery of a copy of the summons and complaint in accordance with any special arrangement for service between the plaintiff and the agency or instrumentality; or

(2) if no special arrangement exists, by delivery of a copy of the summons and complaint either to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service or process in the United States; or in accordance with an applicable international convention or service on judicial document; or

(3) if service cannot be made under paragraph (1) or (2), and if reasonably calculated to given actual notice, by delivery of a copy of the summons and complaint, together with a translation of each into the official language of the foreign state—

(A) as directed by an authority of the foreign state or political subdivision in response to a letter rogatory or request or

(B) by any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the agency or instrumentality to be served, or

(C) as directed by order of the court consistent with the law of the place where service is to be made.

(c) Service shall be deemed to have been made—

(1) in the case of service under subsection (a)(4), as of the date of transmittal indicated in the certified copy of the diplomatic note; and

(2) in any other case under this section, as of the date of receipt indicated in the certification, signed and returned postal receipt, or other proof of service applicable to the method of service employed.

(d) In any action brought in a court of the United States or of a State, a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state shall serve an answer or other responsive pleading to the complaint within sixty days after service has been made under this section.

(e) No judgment by default shall be entered by a court of the United States or of a State against a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state, unless the claimant establishes his claim or right to relief by evidence satisfactory to the court. A copy of any such default judgment shall be sent to the foreign state or political subdivision in the manner prescribed for service in this section

### § 1609. Immunity from attachment and execution of property of a foreign state

Subject to existing international agreements to which the United States is a party at the time of enactment of this Act the property in the United States of a foreign state shall be immune from attachment arrest and execution except as provided in sections 1610 and 1611 of this chapter.

### § 1610. Exceptions to the immunity from attachment or execution

(a) The property in the United States of a foreign state, as defined in section 1603(a) of this chapter, used for a commercial activity in the United States, shall not be immune from attachment in aid of execution, or from execution, upon a judgment entered by a court of the United States or of a State after the effective date of this Act, if—

(1) the foreign state has waived its immunity from attachment in aid of execution or from execution either explicitly or by implication, notwithstanding any withdrawal of the waiver the foreign state may purport to effect except in accordance with the terms of the waiver, or

(2) the property is or was used for the commercial activity upon which the claim is based, or

(3) the execution relates to a judgment establishing rights in property which has been taken in violation of international law or which has been exchanged for property taken in violation of international law, or

(4) the execution relates to a judgment establishing rights in property—

(A) which is acquired by succession or gift, or

(B) which is immovable and situated in the United States: *Provided,* That such property is not used for purposes of maintaining a diplomatic or consular mission or the residence of the Chief of such mission, or

(5) the property consists of any contractual obligation or any proceeds from such a contractual obligation to indemnify or hold harmless the foreign state or its employees under a policy of automobile or other liability or casualty insurance covering the claim which merged into the judgment; or [13]

(6) [13] the judgment is based on an order confirming an arbitral award rendered against the foreign state,[14] provided that attachment in aid of execution, or execution, would not be inconsistent with any provision in the arbitral agreement, or [15]

(7) [15] the judgment relates to a claim for which the foreign state is not immune under section 1605(a)(7), regardless of whether the property is or was involved with the act upon which the claim is based.

(b) In addition to subsection (a), any property in the United States of an agency or instrumentality of a foreign state engaged in commercial activity in the United States shall not be immune from attachment in aid of execution, or from execution, upon a judgment entered by a court of the United States or of a State after the effective date of this Act, if—

(1) the agency or instrumentality has waived its immunity from attachment in aid execution or from execution either explicitly or implicitly, notwithstanding any withdrawal of the waiver the agency or instrumentality may purport to effect except in accordance with the terms of the waiver, or

(2) the judgment relates to a claim for which the agency or instrumentality is not immune by virtue of section 1605(a) (2), (3), (5), or (7) [16] or 1605(b) of this chapter, regardless of whether the property is or was involved in the act [17] upon which the claim is based.

(c) No attachment or execution referred to in subsections (a) and (b) of this section shall be permitted until the court has ordered such attachment and execution after having determined that a reasonable period of time has elapsed following the entry of judgment and the giving of any notice required under section 1608(e) of this chapter.

(d) The property of a foreign state, as defined in section 1603(a) of this chapter, used for a commercial activity in the United States, shall not be immune from attachment prior to the entry of judgment in any action brought in a court of the United States or of

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[13] Sec. 3 of Public Law 100–669 (102 Stat. 3969) inserted "; or" at the end of para. (5) and added a new para. (6).

[14] Sec. 325(b)(9)(A) of Public Law 101–650 (104 Stat. 5121) struck out "State" and inserted in lieu thereof "state".

[15] Sec. 221(b)(1) of Public Law 104–132 (110 Stat. 1242) struck out a period at the end of para. (6), inserted in lieu thereof ", or", and added a new para. (7).

[16] Sec. 221(b)(2)(A) of Public Law 104–132 (110 Stat. 1243) struck out "or (5)" and inserted in lieu thereof "(5), or (7)".

[17] Sec. 221(b)(2)(B) of Public Law 104–132 (110 Stat. 1243) struck out "used for the activity" and inserted in lieu thereof "involved in the act".

a State, or prior to the elapse of the period of time provided in subsection (c) of this section if—

(1) the foreign state has explicitly waived its immunity from attachment prior to judgment, notwithstanding any withdrawal of the waiver the foreign state may purport to effect except in accordance with the terms of the waiver, and

(2) the purpose of the attachment is to secure satisfaction of a judgment that has been or may ultimately be entered against the foreign state, and not to obtain jurisdiction.

(e)[18] The vessels of a foreign state[19] shall not be immune from arrest in rem, interlocutory sale, and execution in actions brought to foreclose a preferred mortgage as provided in section 1605(d).

(f)[20] (1)(A) Notwithstanding any other provision of law, including but not limited to section 208(f) of the Foreign Missions Act (22 U.S.C. 4308(f)), and except as provided in subparagraph (B), any property with respect to which financial transactions are prohibited or regulated pursuant to section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)), section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)), sections 202 and 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701–1702), or any other proclamation, order, regulation, or license issued pursuant thereto, shall be subject to execution or attachment in aid of execution of any judgment relating to a claim for which a foreign state (including any agency or instrumentality or such state) claiming such property is not immune under section 1605(a)(7).

(B) Subparagraph (A) shall not apply if, at the time the property is expropriated or seized by the foreign state, the property has been held in title by a natural person or, if held in trust, has been held for the benefit of a natural person or persons.

(2)(A) At the request of any party in whose favor a judgment has been issued with respect to a claim for which the foreign state is not immune under section 1605(a)(7), the Secretary of the Treasury and the Secretary of State should make every effort to[21] fully, promptly, and effectively assist any judgment creditor or any court that has issued any such judgment in identifying, locating, and executing against the property of that foreign state or any agency or instrumentality of such state.

(B) In providing such assistance, the Secretaries—

(i) may provide such information to the court under seal; and

(ii) should make every effort to[21] provide the information in a manner sufficient to allow the court to direct the United States Marshall's office to promptly and effectively execute against that property.

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[18] Sec. 2 of Public Law 100–640 (102 Stat. 3333) added subsec. (e).

[19] Sec. 325(b)(9)(B) of Public Law 101–650 (104 Stat. 5121) struck out "State" and inserted in lieu thereof "state".

[20] Sec. 117(a) of the Treasury Department Appropriations Act, 1999 (sec. 101(h) of Public Law 105–277; 112 Stat. 2681–491) added subsec. (f). Sec. 117(d) of that Act (112 Stat. 2681–492) provided that "The President may waive the requirements of this section in the interest of national security." Sec. 2002(f)(2) of Public Law 106–386 (114 Stat. 1543) subsequently repealed sec. 117(d), and added similar language to this section as sec. 1610(f)(3).

[21] Sec. 2002(f)(1)(A) of Public Law 106–386 (114 Stat. 1543) struck out "shall" and inserted in lieu thereof "should make every effort to". Sec. 201(c)(3) of Public Law 107–297 (116 Stat. 2337) redesignated sec. 2002(f)(1)(A) of Public Law 106–386 as sec. 2002(g)(1)(A).

(3)[22] WAIVER.—The President may waive any provision of paragraph (1) in the interest of national security.

## § 1611. Certain types of property immune from execution

(a) Notwithstanding the provisions of section 1610 of this chapter, the property of those organizations designated by the President as being entitled to enjoy the privileges, exemptions, and immunities provided by the International Organizations Immunities Act shall not be subject to attachment or any other judicial process impeding the disbursement of funds to, or on the order of, a foreign state as the result of an action brought in the courts of the United States or of the States.

(b) Notwithstanding the provisions of section 1610 of this chapter, the property of a foreign state shall be immune from attachment and from the execution, if—

(1) the property is that of a foreign central bank or monetary authority held for its own account, unless such bank or authority, or its parent foreign government, has explicitly waived its immunity from attachment in aid of execution, or from execution notwithstanding any withdrawal of the waiver which the bank, authority or government may purport to effect except in accordance with the terms of the waiver; or

(2) the property is, or is intended to be, used in connection with a military activity and

(A) is of a military character, or

(B) is under the control of a military authority or defense agency.

(c)[23] Notwithstanding the provisions of section 1610 of this chapter, the property of a foreign state shall be immune from attachment and from execution in an action brought under section 302 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 to the extent that the property is a facility or installation used by an accredited diplomatic mission for official purposes.

[22] Sec. 2002(f)(1)(B) of Public Law 106–386 (114 Stat. 1543) added para. (3).
[23] Sec. 302(e) of Public Law 104–114 (110 Stat. 818) added subsec. (c).

## k. Diplomatic Relations Act

**Partial text of Public Law 95–393 [H.R. 7819], 92 Stat. 808, approved September 30, 1978; as amended by Public Law 97–241 [Department of State Authorization Act, Fiscal Years 1982 and 1983; S. 1193], 96 Stat. 273 at 290, approved August 24, 1982; and Public Law 98–164 [Department of State Authorization Act, Fiscal Years 1984 and 1985; H.R. 2915], 97 Stat. 1017 at 1042, approved November 22, 1983**

AN ACT To complement the Vienna Convention on Diplomatic Relations.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

SECTION 1. This Act may be cited as the "Diplomatic Relations Act".

DEFINITIONS

SEC. 2.[1] As used in this Act—

(1) the term "members of a mission" means—

(A)[2] the head of a mission and those members of a mission who are members of the diplomatic staff or who, pursuant to law, are granted equivalent privileges and immunities,

(B) members of the administrative and technical staff of a mission, and

(C) members of the service staff of a mission,

as such terms are defined in Article 1 of the Vienna Convention;

(2) the term "family" means—

(A) the members of the family of a member of a mission described in paragraph (1)(A) who form part of his or her household if they are not nationals of the United States, and

(B) the members of the family of a member of a mission described in paragraph (1)(B) who form part of his or her household if they are not nationals or permanent residents of the United States.

within the meaning of Article 37 of the Vienna Convention;

(3) the term "mission" includes missions within the meaning of the Vienna convention and any missions representing foreign governments, individually or collectively, which are extended the same privileges and immunities, pursuant to law, as are enjoyed by missions under the Vienna Convention; and

[1] 22 U.S.C. 254a.

[2] Sec. 203(b)(1) of Public Law 97–241 (96 Stat. 290) amended and restated subpara. (A). It formerly read as follows:

"(A) the head of a mission and members of the diplomatic staff of a mission,".

(4) the term "Vienna Convention" means the Vienna Convention on Diplomatic Relations of April 18, 1961 (T.I.A.S. numbered 7502; 23 U.S.T. 3227), entered into force with respect to the United States on December 13, 1972.

ESTABLISHMENT OF THE VIENNA CONVENTION AS THE UNITED STATES LAW ON DIPLOMATIC PRIVILEGES AND IMMUNITIES

SEC. 3. (a) * * *

(b)[3] With respect to a nonparty to the Vienna Convention, the mission, the members of the mission, their families, and diplomatic couriers shall enjoy the privileges and immunities specified in the Vienna Convention.

AUTHORITY TO EXTEND MORE FAVORABLE OR LESS FAVORABLE TREATMENT

SEC. 4.[4] The President may, on the basis of reciprocity and under such terms and conditions as he may determine, specify privileges and immunities for the mission, the[5] members of the mission, their families, and the diplomatic couriers[6] which result in more favorable treatment or less favorable treatment than is provided under the Vienna Convention.

DISMISSAL OF ACTIONS AGAINST INDIVIDUALS ENTITLED TO IMMUNITY

SEC. 5.[7] Any action or proceeding brought against an individual who is entitled to immunity with respect to such action or proceeding under the Vienna Convention on Diplomatic Relations, under section 3(b) or 4 of this Act, or under any other laws extending diplomatic privileges and immunities, shall be dismissed. Such immunity may be established upon motion or suggestion by or on behalf of the individual, or as otherwise permitted by law or applicable rules of procedure.

REQUIREMENT FOR LIABILITY INSURANCE

SEC. 6.[8] (a) Each mission, members of the mission and their families, and individuals described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, shall comply with any requirement imposed by the regulations promulgated by the Director of the Office of Foreign Missions in the Department of State[9] pursuant to subsection (b).

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[3] 22 U.S.C. 254b. Sec. 203(b)(2) of Public Law 97–241 (96 Stat. 291) amended and restated subsec. (b). It formerly read as follows:

"(b) Members of the mission of a sending state which has not ratified the Vienna Convention, their families, and the diplomatic couriers of such state, shall enjoy the privileges and immunities specified in the Vienna Convention.".

[4] 22 U.S.C. 254c. Executive Order 12101 (43 F.R. 54195; November 17, 1978) designated the Secretary of State to perform the functions specified in sec. 4.

[5] Sec. 203(b)(3)(A) of Public Law 97–241 (96 Stat. 291) added "the mission, the".

[6] Sec. 203(b)(3)(B) of Public Law 97–241 (96 Stat. 291) struck out "of any sending state" at this point.

[7] 22 U.S.C. 254d.

[8] 22 U.S.C. 254c.

[9] Sec. 602(1) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 (Public Law 98–164; 97 Stat. 1042) struck out "President" and inserted in lieu thereof "Director of the Office of Foreign Missions in the Department of State". Previously, Executive Order 12101 (43 F.R. 54195; November 17, 1978) had designated the Secretary of State to perform the functions specified in sec. 6.

(b) The Director of the Office of Foreign Missions shall, by regulation, establish liability insurance requirements which can reasonably be expected to afford adequate compensation to victims and which are[10] to be met by each mission, members of the mission and their families, and individuals described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, relating to risks arising from the operation in the United States of any motor vehicle, vessel, or aircraft.

(c) The Director of the Office of Foreign Missions[11] shall take such steps as he may deem necessary to insure that each mission, members of the mission and their families, and individuals described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, who operate motor vehicles, vessels, or aircraft in the United States comply with the requirements established pursuant to subsection (b).

SEC. 7. (a) That chapter 85 of title 28, United States Code, is amended by the addition of the following new section:

**"§ 1364. Direct actions against insurers of members of diplomatic missions and their families**

"(a) The district courts shall have original and exclusive jurisdiction, without regard to the amount in controversy, of any civil action commenced by any person against an insurer who by contract has insured an individual, who is a member of a mission (within the meaning of section 2(3) of the Diplomatic Relations Act (22 U.S.C. 254a(3))[12]) or a member of the family of such a member of a mission, or an individual described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, against liability for personal injury, death, or damage to property.

"(b) Any direct action brought against an insurer under subsection (a) shall be tried without a jury, but shall not be subject to the defense that the insured is immune from suit, that the insured is an indispensable party, or in the absence of fraud or collusion, that the insured has violated a term of the contract, unless the contract was cancelled before the claim arose."

(b) * * *

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EFFECTIVE DATE

SEC. 9. This Act shall take effect at the end of the ninety-day period beginning on the date of its enactment.

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[10] Sec. 602(2) of Public Law 98–164 (97 Stat. 1042) struck out "The President shall by regulation, establish liability insurance requirements" and inserted in lieu thereof "The Director of the Office of Foreign Missions shall, by regulation, establish liability insurance requirements which can reasonably be expected to afford adequate compensation to victims and which are".

[11] Sec. 602(3) of Public Law 98–164 (97 Stat. 1042) struck out "President" and inserted in lieu thereof "Director of the Office of Foreign Missions".

[12] Sec. 203(b)(4) of Public Law 97–241 (96 Stat. 291) struck out "as defined in the Vienna Convention on Diplomatic Relations" and inserted in lieu thereof "within the meaning of section 2(3) of the Diplomatic Relations Act (22 U.S.C. 254a(3))". The amendment results in a double closing parenthesis mark after "254a(3)".

## l. Diplomatic Reciprocity

### (1) Equivalency of Representation Between the United States and Hostile Powers

**Partial text of Public Law 98–618 [Intelligence Authorization Act for Fiscal Year 1985, H.R. 5399], 98 Stat. 3298, approved November 8, 1984**

AN ACT To authorize appropriations for fiscal year 1985 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1985".

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## TITLE VI—COUNTERINTELLIGENCE AND OFFICIAL REPRESENTATION

POLICY TOWARD CERTAIN AGENTS OF FOREIGN GOVERNMENTS

SEC. 601.[1] (a) It is the sense of the Congress that the numbers, status, privileges and immunities, travel, accommodations, and facilities within the United States of official representatives to the United States of any foreign government that engages in intelligence activities within the United States harmful to the national security of the United States should not exceed the respective numbers, status, privileges and immunities, travel accommodations, and facilities within such country of official representatives of the United States to such country.

(b) Beginning one year after the date of enactment of this section, and at intervals of one year thereafter, the President shall prepare and transmit to the Committee on Foreign Relations and Select Committee on Intelligence of the Senate and the Committee on Foreign Affairs[2] and Permanent Select Committee on Intelligence of the House of Representatives a report on the numbers, status, privileges and immunities, travel, accommodations, and facilities within the United States of official representatives to the United States of any foreign government that engages in intelligence activities within the United States harmful to the national security of the United States and the respective numbers, status, privileges and immunities, travel, accommodations, and facilities within such country of official representatives of the United States

[1] 22 U.S.C. 254c–1.

[2] Sec. 1(a)(5) of Public Law 104–14 (109 Stat. 186) provided that references to the Committee on Foreign Affairs of the House of Representatives shall be treated as referring to the Committee on International Relations of the House of Representatives.

to such country, and action which may have been taken with respect thereto.

(c)[3] * * *

(d)[3] * * *

* * * * * * *

[3] Subsec. (c) amended sec. 203 of the State Department Basic Authorities Act of 1956; pursuant to subsec. (d), the amendments were effective for particular appointments made after enactment of the subsection (November 8, 1984).

## (2) Soviet Employees on U.S. Diplomatic Premises

**Partial text of Public Law 99–93 [H.R. 2068], 99 Stat. 405, approved August 16, 1985**

AN ACT To authorize appropriations for fiscal years 1986 and 1987 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

* * * * * * *

**SEC. 136.[1] SOVIET EMPLOYEES AT UNITED STATES DIPLOMATIC AND CONSULAR MISSIONS IN THE SOVIET UNION.**

(a) LIMITATION.—To the maximum extent practicable, citizens of the Soviet Union shall not be employed as foreign national employees at United States diplomatic or consular missions in the Soviet Union after September 30, 1986.

(b)[2] REPORT.—Should the President determine that the implementation of subsection (a) poses undue practical or administrative difficulties, he is requested to submit a report to the Congress describing the number and type of Soviet foreign national employees he wishes to retain at or in proximity to United States diplomatic and consular posts in the Soviet Union, the anticipated duration of their continued employment, the reasons for their continued employment, and the risks associated with the retention of these employees.

[1] 22 U.S.C. 3943 note.

[2] On October 24, 1991, the President issued Determination No. 92–4 (56 F.R. 56567; November 6, 1991), wherein he stated:

"* * * I hereby determine that implementation of section 136(a) of the [Foreign Relations Authorization] Act [, Fiscal Years 1986 and 1987], poses undue practical and administrative difficulties. Consistent with this determination, you [Secretary of State] are authorized to employ Soviet nationals in nonsensitive areas of the New Embassy Compound in Moscow under strict monitoring by cleared Americans. Further, I delegate to you the responsibility vested in me by section 136(b) of the Act, to report to the Congress on circumstances relevant to this determination. Such responsibility may be redelegated within the Department of State.".

## 13. Relating to International Agreements on Children

### a. Intercountry Adoption Act of 2000

**Partial text of Public Law 106–279 [H.R. 2909], 114 Stat. 825, approved October 6, 2000; as amended by Public Law 107–228 [Foreign Relations Authorization Act, Fiscal Year 2003; H.R. 1646], 116 Stat. 1350, approved September 30, 2002**

AN ACT To provide for implementation by the United States of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1.[1] SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Intercountry Adoption Act of 2000".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows: * * *

**SEC. 2.[2] FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress recognizes—

(1) the international character of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (done at The Hague on May 29, 1993); and

(2) the need for uniform interpretation and implementation of the Convention in the United States and abroad,

and therefore finds that enactment of a Federal law governing adoptions and prospective adoptions subject to the Convention involving United States residents is essential.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide for implementation by the United States of the Convention;

(2) to protect the rights of, and prevent abuses against, children, birth families, and adoptive parents involved in adoptions (or prospective adoptions) subject to the Convention, and to ensure that such adoptions are in the children's best interests; and

(3) to improve the ability of the Federal Government to assist United States citizens seeking to adopt children from abroad and residents of other countries party to the Convention seeking to adopt children from the United States.

**SEC. 3.[3] DEFINITIONS.**

As used in this Act:

(1) ACCREDITED AGENCY.—The term "accredited agency" means an agency accredited under title II to provide adoption

[1] 42 U.S.C. 14901 note.
[2] 42 U.S.C. 14901.
[3] 42 U.S.C. 14902.

services in the United States in cases subject to the Convention.

(2) ACCREDITING ENTITY.—The term "accrediting entity" means an entity designated under section 202(a) to accredit agencies and approve persons under title II.

(3) ADOPTION SERVICE.—The term "adoption service" means—

(A) identifying a child for adoption and arranging an adoption;

(B) securing necessary consent to termination of parental rights and to adoption;

(C) performing a background study on a child or a home study on a prospective adoptive parent, and reporting on such a study;

(D) making determinations of the best interests of a child and the appropriateness of adoptive placement for the child;

(E) post-placement monitoring of a case until final adoption; and

(F) where made necessary by disruption before final adoption, assuming custody and providing child care or any other social service pending an alternative placement.

The term "providing", with respect to an adoption service, includes facilitating the provision of the service.

(4) AGENCY.—The term "agency" means any person other than an individual.

(5) APPROVED PERSON.—The term "approved person" means a person approved under title II to provide adoption services in the United States in cases subject to the Convention.

(6) ATTORNEY GENERAL.—Except as used in section 404, the term "Attorney General" means the Attorney General, acting through the Commissioner of Immigration and Naturalization.

(7) CENTRAL AUTHORITY.—The term "central authority" means the entity designated as such by any Convention country under Article 6(1) of the Convention.

(8) CENTRAL AUTHORITY FUNCTION.—The term "central authority function" means any duty required to be carried out by a central authority under the Convention.

(9) CONVENTION.—The term "Convention" means the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, done at The Hague on May 29, 1993.

(10) CONVENTION ADOPTION.—The term "Convention adoption" means an adoption of a child resident in a foreign country party to the Convention by a United States citizen, or an adoption of a child resident in the United States by an individual residing in another Convention country.

(11) CONVENTION RECORD.—The term "Convention record" means any item, collection, or grouping of information contained in an electronic or physical document, an electronic collection of data, a photograph, an audio or video tape, or any other information storage medium of any type whatever that contains information about a specific past, current, or prospective Convention adoption (regardless of whether the adoption was made final) that has been preserved in accordance with

section 401(a) by the Secretary of State or the Attorney General.

(12) CONVENTION COUNTRY.—The term "Convention country" means a country party to the Convention.

(13) OTHER CONVENTION COUNTRY.—The term "other Convention country" means a Convention country other than the United States.

(14) PERSON.—The term "person" shall have the meaning provided in section 1 of title 1, United States Code, and shall not include any agency of government or tribal government entity.

(15) PERSON WITH AN OWNERSHIP OR CONTROL INTEREST.—The term "person with an ownership or control interest" has the meaning given such term in section 1124(a)(3) of the Social Security Act (42 U.S.C. 1320a–3).

(16) SECRETARY.—The term "Secretary" means the Secretary of State.

(17) STATE.—The term "State" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands.

## TITLE I—UNITED STATES CENTRAL AUTHORITY

**SEC. 101.[4] DESIGNATION OF CENTRAL AUTHORITY.**

(a) IN GENERAL.—For purposes of the Convention and this Act—

(1) the Department of State shall serve as the central authority of the United States; and

(2) the Secretary shall serve as the head of the central authority of the United States.

(b) PERFORMANCE OF CENTRAL AUTHORITY FUNCTIONS.—

(1) Except as otherwise provided in this Act, the Secretary shall be responsible for the performance of all central authority functions for the United States under the Convention and this Act.

(2) All personnel of the Department of State performing core central authority functions in a professional capacity in the Office of Children's Issues shall have a strong background in consular affairs, personal experience in international adoptions, or professional experience in international adoptions or child services.

(c) AUTHORITY TO ISSUE REGULATIONS.—Except as otherwise provided in this Act, the Secretary may prescribe such regulations as may be necessary to carry out central authority functions on behalf of the United States.

**SEC. 102.[5] RESPONSIBILITIES OF THE SECRETARY OF STATE.**

(a) LIAISON RESPONSIBILITIES.—The Secretary shall have responsibility for—

(1) liaison with the central authorities of other Convention countries; and

[4] 42 U.S.C. 14911.
[5] 42 U.S.C. 14912.

(2) the coordination of activities under the Convention by persons subject to the jurisdiction of the United States.

(b) INFORMATION EXCHANGE.—The Secretary shall be responsible for—

(1) providing the central authorities of other Convention countries with information concerning—

(A) accredited agencies and approved persons, agencies and persons whose accreditation or approval has been suspended or canceled, and agencies and persons who have been temporarily or permanently debarred from accreditation or approval;

(B) Federal and State laws relevant to implementing the Convention; and

(C) any other matters necessary and appropriate for implementation of the Convention;

(2) not later than the date of the entry into force of the Convention for the United States (pursuant to Article 46(2)(a) of the Convention) and at least once during each subsequent calendar year, providing to the central authority of all other Convention countries a notice requesting the central authority of each such country to specify any requirements of such country regarding adoption, including restrictions on the eligibility of persons to adopt, with respect to which information on the prospective adoptive parent or parents in the United States would be relevant;

(3) making responses to notices under paragraph (2) available to—

(A) accredited agencies and approved persons; and

(B) other persons or entities performing home studies under section 201(b)(1);

(4) ensuring the provision of a background report (home study) on prospective adoptive parent or parents (pursuant to the requirements of section 203(b)(1)(A)(ii)), through the central authority of each child's country of origin, to the court having jurisdiction over the adoption (or, in the case of a child emigrating to the United States for the purpose of adoption, to the competent authority in the child's country of origin with responsibility for approving the child's emigration) in adequate time to be considered prior to the granting of such adoption or approval;

(5) providing Federal agencies, State courts, and accredited agencies and approved persons with an identification of Convention countries and persons authorized to perform functions under the Convention in each such country; and

(6) facilitating the transmittal of other appropriate information to, and among, central authorities, Federal and State agencies (including State courts), and accredited agencies and approved persons.

(c) ACCREDITATION AND APPROVAL RESPONSIBILITIES.—The Secretary shall carry out the functions prescribed by the Convention with respect to the accreditation of agencies and the approval of persons to provide adoption services in the United States in cases subject to the Convention as provided in title II. Such functions may not be delegated to any other Federal agency.

(d) ADDITIONAL RESPONSIBILITIES.—The Secretary—

(1) shall monitor individual Convention adoption cases involving United States citizens; and

(2) may facilitate interactions between such citizens and officials of other Convention countries on matters relating to the Convention in any case in which an accredited agency or approved person is unwilling or unable to provide such facilitation.

(e) ESTABLISHMENT OF REGISTRY.—The Secretary and the Attorney General shall jointly establish a case registry of all adoptions involving immigration of children into the United States and emigration of children from the United States, regardless of whether the adoption occurs under the Convention. Such registry shall permit tracking of pending cases and retrieval of information on both pending and closed cases.

(f) METHODS OF PERFORMING RESPONSIBILITIES.—The Secretary may—

(1) authorize public or private entities to perform appropriate central authority functions for which the Secretary is responsible, pursuant to regulations or under agreements published in the Federal Register; and

(2) carry out central authority functions through grants to, or contracts with, any individual or public or private entity, except as may be otherwise specifically provided in this Act.

**SEC. 103.[6] RESPONSIBILITIES OF THE ATTORNEY GENERAL.**

In addition to such other responsibilities as are specifically conferred upon the Attorney General by this Act, the central authority functions specified in Article 14 of the Convention (relating to the filing of applications by prospective adoptive parents to the central authority of their country of residence) shall be performed by the Attorney General.

**SEC. 104.[7] ANNUAL REPORT ON INTERCOUNTRY ADOPTIONS.**

(a) REPORTS REQUIRED.—Beginning 1 year after the date of the entry into force of the Convention for the United States and each year thereafter, the Secretary, in consultation with the Attorney General and other appropriate agencies, shall submit a report describing the activities of the central authority of the United States under this Act during the preceding year to the Committee on International Relations, the Committee on Ways and Means, and the Committee on the Judiciary of the House of Representatives and the Committee on Foreign Relations, the Committee on Finance, and the Committee on the Judiciary of the Senate.

(b) REPORT ELEMENTS.—Each report under subsection (a) shall set forth with respect to the year concerned, the following:

(1) The number of intercountry adoptions involving immigration to the United States, regardless of whether the adoption occurred under the Convention, including the country from which each child emigrated, the State to which each child immigrated, and the country in which the adoption was finalized.

[6] 42 U.S.C. 14913.
[7] 42 U.S.C. 14914.

(2) The number of intercountry adoptions involving emigration from the United States, regardless of whether the adoption occurred under the Convention, including the country to which each child immigrated and the State from which each child emigrated.

(3) The number of Convention placements for adoption in the United States that were disrupted, including the country from which the child emigrated, the age of the child, the date of the placement for adoption, the reasons for the disruption, the resolution of the disruption, the agencies that handled the placement for adoption, and the plans for the child, and in addition, any information regarding disruption or dissolution of adoptions of children from other countries received pursuant to section 422(b)(14) of the Social Security Act, as amended by section 205 of this Act.

(4) The average time required for completion of a Convention adoption, set forth by country from which the child emigrated.

(5) The current list of agencies accredited and persons approved under this Act to provide adoption services.

(6) The names of the agencies and persons temporarily or permanently debarred under this Act, and the reasons for the debarment.

(7) The range of adoption fees charged in connection with Convention adoptions involving immigration to the United States and the median of such fees set forth by the country of origin.

(8) The range of fees charged for accreditation of agencies and the approval of persons in the United States engaged in providing adoption services under the Convention.

## TITLE II—PROVISIONS RELATING TO ACCREDITATION AND APPROVAL

### SEC. 201.[8] ACCREDITATION OR APPROVAL REQUIRED IN ORDER TO PROVIDE ADOPTION SERVICES IN CASES SUBJECT TO THE CONVENTION.

(a) IN GENERAL.—Except as otherwise provided in this title, no person may offer or provide adoption services in connection with a Convention adoption in the United States unless that person—

(1) is accredited or approved in accordance with this title; or

(2) is providing such services through or under the supervision and responsibility of an accredited agency or approved person.

(b) EXCEPTIONS.—Subsection (a) shall not apply to the following:

(1) BACKGROUND STUDIES AND HOME STUDIES.—The performance of a background study on a child or a home study on a prospective adoptive parent, or any report on any such study by a social work professional or organization who is not providing any other adoption service in the case, if the background or home study is approved by an accredited agency.

(2) CHILD WELFARE SERVICES.—The provision of a child welfare service by a person who is not providing any other adoption service in the case.

[8] 42 U.S.C. 14921.

(3) LEGAL SERVICES.—The provision of legal services by a person who is not providing any adoption service in the case.

(4) PROSPECTIVE ADOPTIVE PARENTS ACTING ON OWN BEHALF.—The conduct of a prospective adoptive parent on his or her own behalf in the case, to the extent not prohibited by the law of the State in which the prospective adoptive parent resides.

**SEC. 202.[9] PROCESS FOR ACCREDITATION AND APPROVAL; ROLE OF ACCREDITING ENTITIES.**

(a) DESIGNATION OF ACCREDITING ENTITIES.—

(1) IN GENERAL.—The Secretary shall enter into agreements with one or more qualified entities under which such entities will perform the duties described in subsection (b) in accordance with the Convention, this title, and the regulations prescribed under section 203, and upon entering into each such agreement shall designate the qualified entity as an accrediting entity.

(2) QUALIFIED ENTITIES.—In paragraph (1), the term "qualified entity" means—

(A) a nonprofit private entity that has expertise in developing and administering standards for entities providing child welfare services and that meets such other criteria as the Secretary may by regulation establish; or

(B) a public entity (other than a Federal entity), including an agency or instrumentality of State government having responsibility for licensing adoption agencies, that—

(i) has expertise in developing and administering standards for entities providing child welfare services;

(ii) accredits only agencies located in the State in which the public entity is located; and

(iii) meets such other criteria as the Secretary may by regulation establish.

(b) DUTIES OF ACCREDITING ENTITIES.—The duties described in this subsection are the following:

(1) ACCREDITATION AND APPROVAL.—Accreditation of agencies, and approval of persons, to provide adoption services in the United States in cases subject to the Convention.

(2) OVERSIGHT.—Ongoing monitoring of the compliance of accredited agencies and approved persons with applicable requirements, including review of complaints against such agencies and persons in accordance with procedures established by the accrediting entity and approved by the Secretary.

(3) ENFORCEMENT.—Taking of adverse actions (including requiring corrective action, imposing sanctions, and refusing to renew, suspending, or canceling accreditation or approval) for noncompliance with applicable requirements, and notifying the agency or person against whom adverse actions are taken of the deficiencies necessitating the adverse action.

(4) DATA, RECORDS, AND REPORTS.—Collection of data, maintenance of records, and reporting to the Secretary, the United States central authority, State courts, and other entities (including on persons and agencies granted or denied approval or

[9] 42 U.S.C. 14922.

accreditation), to the extent and in the manner that the Secretary requires.

(c) REMEDIES FOR ADVERSE ACTION BY ACCREDITING ENTITY.—

(1) CORRECTION OF DEFICIENCY.—An agency or person who is the subject of an adverse action by an accrediting entity may re-apply for accreditation or approval (or petition for termination of the adverse action) on demonstrating to the satisfaction of the accrediting entity that the deficiencies necessitating the adverse action have been corrected.

(2) NO OTHER ADMINISTRATIVE REVIEW.—An adverse action by an accrediting entity shall not be subject to administrative review.

(3) JUDICIAL REVIEW.—An agency or person who is the subject of an adverse action by an accrediting entity may petition the United States district court in the judicial district in which the agency is located or the person resides to set aside the adverse action. The court shall review the adverse action in accordance with section 706 of title 5, United States Code, and for purposes of such review the accrediting entity shall be considered an agency within the meaning of section 701 of such title.

(d) FEES.—The amount of fees assessed by accrediting entities for the costs of accreditation shall be subject to approval by the Secretary. Such fees may not exceed the costs of accreditation. In reviewing the level of such fees, the Secretary shall consider the relative size of, the geographic location of, and the number of Convention adoption cases managed by the agencies or persons subject to accreditation or approval by the accrediting entity.

**SEC. 203.[10] STANDARDS AND PROCEDURES FOR PROVIDING ACCREDITATION OR APPROVAL.**

(a) IN GENERAL.—

(1) PROMULGATION OF REGULATIONS.—The Secretary, shall, by regulation, prescribe the standards and procedures to be used by accrediting entities for the accreditation of agencies and the approval of persons to provide adoption services in the United States in cases subject to the Convention.

(2) CONSIDERATION OF VIEWS.—In developing such regulations, the Secretary shall consider any standards or procedures developed or proposed by, and the views of, individuals and entities with interest and expertise in international adoptions and family social services, including public and private entities with experience in licensing and accrediting adoption agencies.

(3) APPLICABILITY OF NOTICE AND COMMENT RULES.—Subsections (b), (c), and (d) of section 553 of title 5, United States Code, shall apply in the development and issuance of regulations under this section.

(b) MINIMUM REQUIREMENTS.—

(1) ACCREDITATION.—The standards prescribed under subsection (a) shall include the requirement that accreditation of an agency may not be provided or continued under this title unless the agency meets the following requirements:

(A) SPECIFIC REQUIREMENTS.—

[10] 42 U.S.C. 14923.

(i) The agency provides prospective adoptive parents of a child in a prospective Convention adoption a copy of the medical records of the child (which, to the fullest extent practicable, shall include an English-language translation of such records) on a date which is not later than the earlier of the date that is 2 weeks before: (I) the adoption; or (II) the date on which the prospective parents travel to a foreign country to complete all procedures in such country relating to the adoption.

(ii) The agency ensures that a thorough background report (home study) on the prospective adoptive parent or parents has been completed in accordance with the Convention and with applicable Federal and State requirements and transmitted to the Attorney General with respect to each Convention adoption. Each such report shall include a criminal background check and a full and complete statement of all facts relevant to the eligibility of the prospective adopting parent or parents to adopt a child under any requirements specified by the central authority of the child's country of origin under section 102(b)(3), including, in the case of a child emigrating to the United States for the purpose of adoption, the requirements of the child's country of origin applicable to adoptions taking place in such country. For purposes of this clause, the term "background report (home study)" includes any supplemental statement submitted by the agency to the Attorney General for the purpose of providing information relevant to any requirements specified by the child's country of origin.

(iii) The agency provides prospective adoptive parents with a training program that includes counseling and guidance for the purpose of promoting a successful intercountry adoption before such parents travel to adopt the child or the child is placed with such parents for adoption.

(iv) The agency employs personnel providing intercountry adoption services on a fee for service basis rather than on a contingent fee basis.

(v) The agency discloses fully its policies and practices, the disruption rates of its placements for intercountry adoption, and all fees charged by such agency for intercountry adoption.

(B) CAPACITY TO PROVIDE ADOPTION SERVICES.—The agency has, directly or through arrangements with other persons, a sufficient number of appropriately trained and qualified personnel, sufficient financial resources, appropriate organizational structure, and appropriate procedures to enable the agency to provide, in accordance with this Act, all adoption services in cases subject to the Convention.

(C) USE OF SOCIAL SERVICE PROFESSIONALS.—The agency has established procedures designed to ensure that social

service functions requiring the application of clinical skills and judgment are performed only by professionals with appropriate qualifications and credentials.

(D) RECORDS, REPORTS, AND INFORMATION MATTERS.—The agency is capable of—

(i) maintaining such records and making such reports as may be required by the Secretary, the United States central authority, and the accrediting entity that accredits the agency;

(ii) cooperating with reviews, inspections, and audits;

(iii) safeguarding sensitive individual information; and

(iv) complying with other requirements concerning information management necessary to ensure compliance with the Convention, this Act, and any other applicable law.

(E) LIABILITY INSURANCE.—The agency agrees to have in force adequate liability insurance for professional negligence and any other insurance that the Secretary considers appropriate.

(F) COMPLIANCE WITH APPLICABLE RULES.—The agency has established adequate measures to comply (and to ensure compliance of their agents and clients) with the Convention, this Act, and any other applicable law.

(G) NONPROFIT ORGANIZATION WITH STATE LICENSE TO PROVIDE ADOPTION SERVICES.—The agency is a private nonprofit organization licensed to provide adoption services in at least one State.

(2) APPROVAL.—The standards prescribed under subsection (a) shall include the requirement that a person shall not be approved under this title unless the person is a private for-profit entity that meets the requirements of subparagraphs (A) through (F) of paragraph (1) of this subsection.

(3) RENEWAL OF ACCREDITATION OR APPROVAL.—The standards prescribed under subsection (a) shall provide that the accreditation of an agency or approval of a person under this title shall be for a period of not less than 3 years and not more than 5 years, and may be renewed on a showing that the agency or person meets the requirements applicable to original accreditation or approval under this title.

(c) TEMPORARY REGISTRATION OF COMMUNITY BASED AGENCIES.—

(1) ONE-YEAR REGISTRATION PERIOD FOR MEDIUM COMMUNITY BASED AGENCIES.—For a 1-year period after the entry into force of the Convention and notwithstanding subsection (b), the Secretary may provide, in regulations issued pursuant to subsection (a), that an agency may register with the Secretary and be accredited to provide adoption services in the United States in cases subject to the Convention during such period if the agency has provided adoption services in fewer than 100 intercountry adoptions in the preceding calendar year and meets the criteria described in paragraph (3).

(2) TWO-YEAR REGISTRATION PERIOD FOR SMALL COMMUNITY-BASED AGENCIES.—For a 2-year period after the entry into force

of the Convention and notwithstanding subsection (b), the Secretary may provide, in regulations issued pursuant to subsection (a), that an agency may register with the Secretary and be accredited to provide adoption services in the United States in cases subject to the Convention during such period if the agency has provided adoption services in fewer than 50 intercountry adoptions in the preceding calendar year and meets the criteria described in paragraph (3).

(3) CRITERIA FOR REGISTRATION.—Agencies registered under this subsection shall meet the following criteria:

(A) The agency is licensed in the State in which it is located and is a nonprofit agency.

(B) The agency has been providing adoption services in connection with intercountry adoptions for at least 3 years.

(C) The agency has demonstrated that it will be able to provide the United States Government with all information related to the elements described in section 104(b) and provides such information.

(D) The agency has initiated the process of becoming accredited under the provisions of this Act and is actively taking steps to become an accredited agency.

(E) The agency has not been found to be involved in any improper conduct relating to intercountry adoptions.

**SEC. 204.[11] SECRETARIAL OVERSIGHT OF ACCREDITATION AND APPROVAL.**

(a) OVERSIGHT OF ACCREDITING ENTITIES.—The Secretary shall—

(1) monitor the performance by each accrediting entity of its duties under section 202 and its compliance with the requirements of the Convention, this Act, other applicable laws, and implementing regulations under this Act; and

(2) suspend or cancel the designation of an accrediting entity found to be substantially out of compliance with the Convention, this Act, other applicable laws, or implementing regulations under this Act.

(b) SUSPENSION OR CANCELLATION OF ACCREDITATION OR APPROVAL.—

(1) SECRETARY'S AUTHORITY.—The Secretary shall suspend or cancel the accreditation or approval granted by an accrediting entity to an agency or person pursuant to section 202 when the Secretary finds that—

(A) the agency or person is substantially out of compliance with applicable requirements; and

(B) the accrediting entity has failed or refused, after consultation with the Secretary, to take appropriate enforcement action.

(2) CORRECTION OF DEFICIENCY.—At any time when the Secretary is satisfied that the deficiencies on the basis of which an adverse action is taken under paragraph (1) have been corrected, the Secretary shall—

(A) notify the accrediting entity that the deficiencies have been corrected; and

[11] 42 U.S.C. 14924.

(B)(i) in the case of a suspension, terminate the suspension; or

(ii) in the case of a cancellation, notify the agency or person that the agency or person may re-apply to the accrediting entity for accreditation or approval.

(c) DEBARMENT.—

(1) SECRETARY'S AUTHORITY.—On the initiative of the Secretary, or on request of an accrediting entity, the Secretary may temporarily or permanently debar an agency from accreditation or a person from approval under this title, but only if—

(A) there is substantial evidence that the agency or person is out of compliance with applicable requirements; and

(B) there has been a pattern of serious, willful, or grossly negligent failures to comply or other aggravating circumstances indicating that continued accreditation or approval would not be in the best interests of the children and families concerned.

(2) PERIOD OF DEBARMENT.—The Secretary's debarment order shall state whether the debarment is temporary or permanent. If the debarment is temporary, the Secretary shall specify a date, not earlier than 3 years after the date of the order, on or after which the agency or person may apply to the Secretary for withdrawal of the debarment.

(3) EFFECT OF DEBARMENT.—An accrediting entity may take into account the circumstances of the debarment of an agency or person that has been debarred pursuant to this subsection in considering any subsequent application of the agency or person, or of any other entity in which the agency or person has an ownership or control interest, for accreditation or approval under this title.

(d) JUDICIAL REVIEW.—A person (other than a prospective adoptive parent), an agency, or an accrediting entity who is the subject of a final action of suspension, cancellation, or debarment by the Secretary under this title may petition the United States District Court for the District of Columbia or the United States district court in the judicial district in which the person resides or the agency or accrediting entity is located to set aside the action. The court shall review the action in accordance with section 706 of title 5, United States Code.

(e) FAILURE TO ENSURE A FULL AND COMPLETE HOME STUDY.—

(1) IN GENERAL.—Willful, grossly negligent, or repeated failure to ensure the completion and transmission of a background report (home study) that fully complies with the requirements of section 203(b)(1)(A)(ii) shall constitute substantial noncompliance with applicable requirements.

(2) REGULATIONS.—Regulations promulgated under section 203 shall provide for—

(A) frequent and careful monitoring of compliance by agencies and approved persons with the requirements of section 203(b)(A)(ii); and

(B) consultation between the Secretary and the accrediting entity where an agency or person has engaged in substantial noncompliance with the requirements of section

203(b)(A)(ii), unless the accrediting entity has taken appropriate corrective action and the noncompliance has not recurred.

(3) REPEATED FAILURES TO COMPLY.—Repeated serious, willful, or grossly negligent failures to comply with the requirements of section 203(b)(1)(A)(ii) by an agency or person after consultation between Secretary and the accrediting entity with respect to previous noncompliance by such agency or person shall constitute a pattern of serious, willful, or grossly negligent failures to comply under subsection (c)(1)(B).

(4) FAILURE TO COMPLY WITH CERTAIN REQUIREMENTS.—A failure to comply with the requirements of section 203(b)(1)(A)(ii) shall constitute a serious failure to comply under subsection (c)(1)(B) unless it is shown by clear and convincing evidence that such noncompliance had neither the purpose nor the effect of determining the outcome of a decision or proceeding by a court or other competent authority in the United States or the child's country of origin.

**SEC. 205. STATE PLAN REQUIREMENT.**

Section 422(b) of the Social Security Act (42 U.S.C. 622(b)) is amended—* * *

## TITLE III—RECOGNITION OF CONVENTION ADOPTIONS IN THE UNITED STATES

**SEC. 301.[12] ADOPTIONS OF CHILDREN IMMIGRATING TO THE UNITED STATES.**

(a) LEGAL EFFECT OF CERTIFICATES ISSUED BY THE SECRETARY OF STATE.—

(1) ISSUANCE OF CERTIFICATES BY THE SECRETARY OF STATE.—The Secretary of State shall, with respect to each Convention adoption, issue a certificate to the adoptive citizen parent domiciled in the United States that the adoption has been granted or, in the case of a prospective adoptive citizen parent, that legal custody of the child has been granted to the citizen parent for purposes of emigration and adoption, pursuant to the Convention and this Act, if the Secretary of State—

(A) receives appropriate notification from the central authority of such child's country of origin; and

(B) has verified that the requirements of the Convention and this Act have been met with respect to the adoption.

(2) LEGAL EFFECT OF CERTIFICATES.—If appended to an original adoption decree, the certificate described in paragraph (1) shall be treated by Federal and State agencies, courts, and other public and private persons and entities as conclusive evidence of the facts certified therein and shall constitute the certification required by section 204(d)(2) of the Immigration and Nationality Act, as amended by this Act.

(b) LEGAL EFFECT OF CONVENTION ADOPTION FINALIZED IN ANOTHER CONVENTION COUNTRY.—A final adoption in another Convention country, certified by the Secretary of State pursuant to subsection (a) of this section or section 303(c), shall be recognized

[12] 42 U.S.C. 14931.

as a final valid adoption for purposes of all Federal, State, and local laws of the United States.

(c) CONDITION ON FINALIZATION OF CONVENTION ADOPTION BY STATE COURT.—In the case of a child who has entered the United States from another Convention country for the purpose of adoption, an order declaring the adoption final shall not be entered unless the Secretary of State has issued the certificate provided for in subsection (a) with respect to the adoption.

**SEC. 302. IMMIGRATION AND NATIONALITY ACT AMENDMENTS RELATING TO CHILDREN ADOPTED FROM CONVENTION COUNTRIES.**

(a) DEFINITION OF CHILD.—Section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)) is amended—* * *

(b) APPROVAL OF PETITIONS.—Section 204(d) of the Immigration and Nationality Act (8 U.S.C. 1154(d)) is amended—* * *

(c) DEFINITION OF PARENT.—Section 101(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(2)) is amended * * *

**SEC. 303.[13] ADOPTIONS OF CHILDREN EMIGRATING FROM THE UNITED STATES.**

(a) DUTIES OF ACCREDITED AGENCY OR APPROVED PERSON.—In the case of a Convention adoption involving the emigration of a child residing in the United States to a foreign country, the accredited agency or approved person providing adoption services, or the prospective adoptive parent or parents acting on their own behalf (if permitted by the laws of such other Convention country in which they reside and the laws of the State in which the child resides), shall do the following:

(1) Ensure that, in accordance with the Convention—

(A) a background study on the child is completed;

(B) the accredited agency or approved person—

(i) has made reasonable efforts to actively recruit and make a diligent search for prospective adoptive parents to adopt the child in the United States; and

(ii) despite such efforts, has not been able to place the child for adoption in the United States in a timely manner; and

(C) a determination is made that placement with the prospective adoptive parent or parents is in the best interests of the child.

(2) Furnish to the State court with jurisdiction over the case—

(A) documentation of the matters described in paragraph (1);

(B) a background report (home study) on the prospective adoptive parent or parents (including a criminal background check) prepared in accordance with the laws of the receiving country; and

(C) a declaration by the central authority (or other competent authority) of such other Convention country—

(i) that the child will be permitted to enter and reside permanently, or on the same basis as the adopting parent, in the receiving country; and

[13] 42 U.S.C. 14932.

(ii) that the central authority (or other competent authority) of such other Convention country consents to the adoption, if such consent is necessary under the laws of such country for the adoption to become final.

(3) Furnish to the United States central authority—

(A) official copies of State court orders certifying the final adoption or grant of custody for the purpose of adoption;

(B) the information and documents described in paragraph (2), to the extent required by the United States central authority; and

(C) any other information concerning the case required by the United States central authority to perform the functions specified in subsection (c) or otherwise to carry out the duties of the United States central authority under the Convention.

(b) CONDITIONS ON STATE COURT ORDERS.—An order declaring an adoption to be final or granting custody for the purpose of adoption in a case described in subsection (a) shall not be entered unless the court—

(1) has received and verified to the extent the court may find necessary—

(A) the material described in subsection (a)(2); and

(B) satisfactory evidence that the requirements of Articles 4 and 15 through 21 of the Convention have been met; and

(2) has determined that the adoptive placement is in the best interests of the child.

(c) DUTIES OF THE SECRETARY OF STATE.—In a case described in subsection (a), the Secretary, on receipt and verification as necessary of the material and information described in subsection (a)(3), shall issue, as applicable, an official certification that the child has been adopted or a declaration that custody for purposes of adoption has been granted, in accordance with the Convention and this Act.

(d) FILING WITH REGISTRY REGARDING NONCONVENTION ADOPTIONS.—Accredited agencies, approved persons, and other persons, including governmental authorities, providing adoption services in an intercountry adoption not subject to the Convention that involves the emigration of a child from the United States shall file information required by regulations jointly issued by the Attorney General and the Secretary of State for purposes of implementing section 102(e).

## TITLE IV—ADMINISTRATION AND ENFORCEMENT

**SEC. 401.[14] ACCESS TO CONVENTION RECORDS.**

(a) PRESERVATION OF CONVENTION RECORDS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary, in consultation with the Attorney General, shall issue regulations that establish

[14] 42 U.S.C. 14941.

procedures and requirements in accordance with the Convention and this section for the preservation of Convention records.

(2) APPLICABILITY OF NOTICE AND COMMENT RULES.—Subsections (b), (c), and (d) of section 553 of title 5, United States Code, shall apply in the development and issuance of regulations under this section.

(b) ACCESS TO CONVENTION RECORDS.—

(1) PROHIBITION.—Except as provided in paragraph (2), the Secretary or the Attorney General may disclose a Convention record, and access to such a record may be provided in whole or in part, only if such record is maintained under the authority of the Immigration and Nationality Act and disclosure of, or access to, such record is permitted or required by applicable Federal law.

(2) EXCEPTION FOR ADMINISTRATION OF THE CONVENTION.—A Convention record may be disclosed, and access to such a record may be provided, in whole or in part, among the Secretary, the Attorney General, central authorities, accredited agencies, and approved persons, only to the extent necessary to administer the Convention or this Act.

(3) PENALTIES FOR UNLAWFUL DISCLOSURE.—Unlawful disclosure of all or part of a Convention record shall be punishable in accordance with applicable Federal law.

(c) ACCESS TO NON-CONVENTION RECORDS.—Disclosure of, access to, and penalties for unlawful disclosure of, adoption records that are not Convention records, including records of adoption proceedings conducted in the United States, shall be governed by applicable State law.

**SEC. 402.[15] DOCUMENTS OF OTHER CONVENTION COUNTRIES.**

Documents originating in any other Convention country and related to a Convention adoption case shall require no authentication in order to be admissible in any Federal, State, or local court in the United States, unless a specific and supported claim is made that the documents are false, have been altered, or are otherwise unreliable.

**SEC. 403.[16] AUTHORIZATION OF APPROPRIATIONS; COLLECTION OF FEES.**

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to agencies of the Federal Government implementing the Convention and the provisions of this Act.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(b) ASSESSMENT OF FEES.—

(1) The Secretary may charge a fee for new or enhanced services that will be undertaken by the Department of State to meet the requirements of this Act with respect to intercountry adoptions under the Convention and comparable services with

[15] 42 U.S.C. 14942.
[16] 42 U.S.C. 14943.

respect to other intercountry adoptions. Such fee shall be prescribed by regulation and shall not exceed the cost of such services.

(2) Fees collected under paragraph (1) shall be retained and deposited as an offsetting collection to any Department of State appropriation to recover the costs of providing such services. Such fees shall remain available for obligation until expended.[17]

(c) RESTRICTION.—No funds collected under the authority of this section may be made available to an accrediting entity to carry out the purposes of this Act.

**SEC. 404.[18] ENFORCEMENT.**

(a) CIVIL PENALTIES.—Any person who—

(1) violates section 201;

(2) makes a false or fraudulent statement, or misrepresentation, with respect to a material fact, or offers, gives, solicits, or accepts inducement by way of compensation, intended to influence or affect in the United States or a foreign country—

(A) a decision by an accrediting entity with respect to the accreditation of an agency or approval of a person under title II;

(B) the relinquishment of parental rights or the giving of parental consent relating to the adoption of a child in a case subject to the Convention; or

(C) a decision or action of any entity performing a central authority function; or

(3) engages another person as an agent, whether in the United States or in a foreign country, who in the course of that agency takes any of the actions described in paragraph (1) or (2),

shall be subject, in addition to any other penalty that may be prescribed by law, to a civil money penalty of not more than $50,000 for a first violation, and not more than $100,000 for each succeeding violation.

(b) CIVIL ENFORCEMENT.—

(1) AUTHORITY OF ATTORNEY GENERAL.—The Attorney General may bring a civil action to enforce subsection (a) against any person in any United States district court.

(2) FACTORS TO BE CONSIDERED IN IMPOSING PENALTIES.—In imposing penalties the court shall consider the gravity of the violation, the degree of culpability of the defendant, and any history of prior violations by the defendant.

(c) CRIMINAL PENALTIES.—Whoever knowingly and willfully violates paragraph (1) or (2) of subsection (a) shall be subject to a fine of not more than $250,000, imprisonment for not more than 5 years, or both.

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[17] Sec. 211(a)(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1365), added "Such fees shall remain available for obligation until expended.". Sec. 211(a)(2) of that Act struck out para. (3) of this subsection.

[18] 42 U.S.C. 14944.

## TITLE V—GENERAL PROVISIONS

**SEC. 501.[19] RECOGNITION OF CONVENTION ADOPTIONS.**

Subject to Article 24 of the Convention, adoptions concluded between two other Convention countries that meet the requirements of Article 23 of the Convention and that became final before the date of entry into force of the Convention for the United States shall be recognized thereafter in the United States and given full effect. Such recognition shall include the specific effects described in Article 26 of the Convention.

**SEC. 502.[20] SPECIAL RULES FOR CERTAIN CASES.**

(a) AUTHORITY TO ESTABLISH ALTERNATIVE PROCEDURES FOR ADOPTION OF CHILDREN BY RELATIVES.—To the extent consistent with the Convention, the Secretary may establish by regulation alternative procedures for the adoption of children by individuals related to them by blood, marriage, or adoption, in cases subject to the Convention.

(b) WAIVER AUTHORITY.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, to the extent consistent with the Convention, the Secretary may, on a case-by-case basis, waive applicable requirements of this Act or regulations issued under this Act, in the interests of justice or to prevent grave physical harm to the child.

(2) NONDELEGATION.—The authority provided by paragraph (1) may not be delegated.

**SEC. 503.[21] RELATIONSHIP TO OTHER LAWS.**

(a) PREEMPTION OF INCONSISTENT STATE LAW.—The Convention and this Act shall not be construed to preempt any provision of the law of any State or political subdivision thereof, or prevent a State or political subdivision thereof from enacting any provision of law with respect to the subject matter of the Convention or this Act, except to the extent that such provision of State law is inconsistent with the Convention or this Act, and then only to the extent of the inconsistency.

(b) APPLICABILITY OF THE INDIAN CHILD WELFARE ACT.—The Convention and this Act shall not be construed to affect the application of the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.).

(c) RELATIONSHIP TO OTHER LAWS.—Sections 3506(c), 3507, and 3512 of title 44, United States Code, shall not apply to information collection for purposes of sections 104, 202(b)(4), and 303(d) of this Act or for use as a Convention record as defined in this Act.

**SEC. 504.[22] NO PRIVATE RIGHT OF ACTION.**

The Convention and this Act shall not be construed to create a private right of action to seek administrative or judicial relief, except to the extent expressly provided in this Act.

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[19] 42 U.S.C. 14951.
[20] 42 U.S.C. 14952.
[21] 42 U.S.C. 14953.
[22] 42 U.S.C. 14954.

**SEC. 505.**[23] **EFFECTIVE DATES; TRANSITION RULE.**

(a) EFFECTIVE DATES.—

(1) PROVISIONS EFFECTIVE UPON ENACTMENT.—Sections 2, 3, 101 through 103, 202 through 205, 401(a), 403, 503, and 505(a) shall take effect on the date of the enactment of this Act.

(2) PROVISIONS EFFECTIVE UPON THE ENTRY INTO FORCE OF THE CONVENTION.—Subject to subsection (b), the provisions of this Act not specified in paragraph (1) shall take effect upon the entry into force of the Convention for the United States pursuant to Article 46(2)(a) of the Convention.

(b) TRANSITION RULE.—The Convention and this Act shall not apply—

(1) in the case of a child immigrating to the United States, if the application for advance processing of an orphan petition or petition to classify an orphan as an immediate relative for the child is filed before the effective date described in subsection (a)(2); or

(2) in the case of a child emigrating from the United States, if the prospective adoptive parents of the child initiated the adoption process in their country of residence with the filing of an appropriate application before the effective date described in subsection (a)(2).

[23] 42 U.S.C. 14901 note.

## b. Extradition Treaties Interpretation Act of 1998

**Title II of Public Law 105–323 [H.R. 4660], 112 Stat. 3029 at 3033, approved October 30, 1998**

## TITLE II—EXTRADITION TREATIES INTERPRETATION ACT OF 1998 [1]

**SEC. 201. SHORT TITLE.**

This title may be cited as the "Extradition Treaties Interpretation Act of 1998".

**SEC. 202. FINDINGS.**

Congress finds that—

(1) each year, several hundred children are kidnapped by a parent in violation of law, court order, or legally binding agreement and brought to, or taken from, the United States;

(2) until the mid-1970's, parental abduction generally was not considered a criminal offense in the United States;

(3) since the mid-1970's, United States criminal law has evolved such that parental abduction is now a criminal offense in each of the 50 States and the District of Columbia;

(4) in enacting the International Parental Kidnapping Crime Act of 1993 (Public Law 103–173; 107 Stat. 1998; 18 U.S.C. 1204), Congress recognized the need to combat parental abduction by making the act of international parental kidnapping a Federal criminal offense;

(5) many of the extradition treaties to which the United States is a party specifically list the offenses that are extraditable and use the word "kidnapping", but it has been the practice of the United States not to consider the term to include parental abduction because these treaties were negotiated by the United States prior to the development in United States criminal law described in paragraphs (3) and (4);

(6) the more modern extradition treaties to which the United States is a party contain dual criminality provisions, which provide for extradition where both parties make the offense a felony, and therefore it is the practice of the United States to consider such treaties to include parental abduction if the other foreign state party also considers the act of parental abduction to be a criminal offense; and

(7) this circumstance has resulted in a disparity in United States extradition law which should be rectified to better protect the interests of children and their parents.

**SEC. 203. INTERPRETATION OF EXTRADITION TREATIES.**

For purposes of any extradition treaty to which the United States is a party, Congress authorizes the interpretation of the terms "kidnaping" and "kidnapping" to include parental kidnapping.

[1] 18 U.S.C. 3181 note.

## c. International Child Abduction Remedies Act

**Partial text of Public Law 100–300 [H.R. 3971], 102 Stat. 437, approved April 29, 1988; as amended by Public Law 105–277 [Foreign Relations Authorization Act, Fiscal Years 1998 and 1999; H.R. 4328], 112 Stat. 2681–801, approved October 21, 1998; and Public Law 108–370 [Prevention of Child Abduction Partnership Act; S. 2883], 118 Stat. 1750, approved October 25, 2004**

AN ACT To establish procedures to implement the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1.[1] SHORT TITLE.**

This Act may be cited as the "International Child Abduction Remedies Act".

**SEC. 2.[2] FINDINGS AND DECLARATIONS.**

(a) FINDINGS.—The Congress makes the following findings:

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[1] 42 U.S.C. 11601 note. See also the International Parental Kidnapping Crime Act of 1993 (Public Law 103–173; 107 Stat. 1998; 18 U.S.C. 1204).

[2] 42 U.S.C. 11601. See also sec. 2803 of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105–277; 112 Stat. 2681–846), as amended by sec. 202 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted by sec. 1000(a)(7) of Public Law 106–113; 113 Stat. 1501A–420), and sec. 212 of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 116 Stat. 1365), relating to a report on compliance with the Hague Convention on International Child Abduction. Sec. 2803 provides as follows:

**"SEC. 2803. REPORT ON COMPLIANCE WITH THE HAGUE CONVENTION ON INTERNATIONAL CHILD ABDUCTION.**

"(a) IN GENERAL.—Beginning 6 months after the date of the enactment of this Act and every 12 months thereafter, the Secretary of State shall submit a report to the appropriate congressional committees on the compliance with the provisions of the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, by the signatory countries of the Convention. Each such report shall include the following information:

"(1) The number of applications for the return of children submitted by applicants in the United States to the Central Authority for the United States that remain unresolved more than 18 months after the date of filing.

"(2) A list of the countries to which children in unresolved applications described in paragraph (1) are alleged to have been abducted, are being wrongfully retained in violation of United States court orders, or which have failed to comply with any of their obligations under such convention with respect to applications for the return of children, access to children, or both, submitted by applicants in the United States.

"(3) A list of the countries that have demonstrated a pattern of noncompliance with the obligations of the Convention with respect to applications for the return of children, access to children, or both, submitted by applicants in the United States to the Central Authority for the United States.

"(4) Detailed information on each unresolved case described in paragraph (1) and on actions taken by the Department of State to resolve each such case, including the specific actions taken by the United States chief of mission in the country to whichthe child is alleged to have been abducted.

"(5) Information on efforts by the Department of State to encourage other countries to become signatories of the Convention.

"(6) A list of the countries that are parties to the Convention in which, during the reporting period, parents who have been left-behind [sic] in the United States have not been able to secure prompt enforcement of a final return or access orderunder a Hague proceeding, of a United States custody, access, or visitation order, or of an access or visitation order

Continued

(1) The international abduction or wrongful retention of children is harmful to their well-being.

(2) Persons should not be permitted to obtain custody of children by virtue of their wrongful removal or retention.

(3) International abductions and retentions of children are increasing, and only concerted cooperation pursuant to an international agreement can effectively combat this problem.

(4) The Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, establishes legal rights and procedures for the prompt return of children who have been wrongfully removed or retained, as well as for securing the exercise of visitation rights. Children who are wrongfully removed or retained within the meaning of the Convention are to be promptly returned unless one of narrow exceptions set forth in the Convention applies. The Convention provides a sound treaty framework to help resolve the problem of international abduction and retention of children and will deter such wrongful removals and retentions.

(b) DECLARATIONS.—The Congress makes the following declarations:

(1) It is the purpose of this Act to establish procedures for the implementation of the Convention in the United States.

(2) The provisions of this Act are in addition to and not in lieu of the provisions of the Convention.

(3) In enacting this Act the Congress recognizes—

(A) the international character of the Convention; and

(B) the need for uniform international interpretation of the Convention.

(4) The Convention and this Act empower courts in the United States to determine only rights under the Convention and not the merits of any underlying child custody claims.

**SEC. 3.[3] DEFINITIONS.**

For the purpose of this Act—

(1) the term "applicant" means any person who, pursuant to the Convention, files an application with the United States Central Authority or a Central Authority of any other party to the Convention for the return of a child alleged to have been wrongfully removed or retained or for arrangements for organizing or securing the effective exercise of rights of access pursuant to the Convention;

(2) the term "Convention" means the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980;

(3) the term "Parent Locator Service" means the service established by the Secretary of Health and Human Services under section 453 of the Social Security Act (42 U.S.C. 653);

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by authorities in the country concerned, due to the absence of a prompt and effective method for enforcement of civil court orders, the absence of a doctrine of comity, or other factors.

"(7) A description of the efforts of the Secretary of State to encourage the parties to the Convention to facilitate the work of nongovernmental organizations within their countries that assist parents seeking the return of children under the Convention.

"(b) DEFINITION.—In this section, the term "Central Authority for the United States" has the meaning given the term in Article 6 of the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980.".

[3] 42 U.S.C. 11602.

(4) the term "petitioner" means any person who, in accordance with this Act, files a petition in court seeking relief under the Convention;

(5) The term "person" includes any individual, institution, or other legal entity or body;

(6) the term "respondent" means any person against whose interests a petition is filed in court, in accordance with this Act, which seeks relief under the Convention;

(7) the term "rights of access" means visitation rights;

(8) the term "State" means any of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

(9) the term "United States Central Authority" means the agency of the Federal Government designated by the President under section 7(a).

**SEC. 4.[4] JUDICIAL REMEDIES.**

(a) JURISDICTION OF THE COURTS.—The courts of the States and the United States district courts shall have concurrent original jurisdiction of actions arising under the Convention.

(b) PETITIONS.—Any person seeking to initiate judicial proceedings under the Convention for the return of a child or for arrangements for organizing or securing the effective exercise of rights of access to a child may do so by commencing a civil action by filing a petition for the relief sought in any court which has jurisdiction in the place where the child is located at the time the petition is filed.

(c) NOTICE.—Notice of an action brought under subsection (b) shall be given in accordance with the applicable law governing notice in interstate child custody proceedings.

(d) DETERMINATION OF CASE.—The court in which an action is brought under subsection (b) shall decide the case in accordance with the Convention.

(e) BURDENS OF PROOF.—(1) A petitioner in an action brought under subsection (b) shall establish by a preponderance of the evidence—

(A) in the case of an action for the return of a child, that the child has been wrongfully removed or retained within the meaning of the Convention; and

(B) in the case of an action for arrangements for organizing or securing the effective exercise of rights of access, that the petitioner has such rights.

(2) In the case of an action for the return of a child, a respondent who opposes the return of the child has the burden of establishing—

(A) by clear and convincing evidence that one of the exceptions set forth in article 13b or 20 of the Convention applies; and

(B) by a preponderance of the evidence that any other exception set forth in article 12 or 13 of the Convention applies.

(f) APPLICATION OF THE CONVENTION.—For purposes of any action brought under this Act—

[4] 42 U.S.C. 11603.

(1) the term "authorities", as used in article 15 of the Convention to refer to the authorities of the state of the habitual residence of a child, includes courts and appropriate government agencies;

(2) the terms "wrongful removal or retention" and "wrongfully removed or retained", as used in the Convention, include a removal or retention of a child before the entry of a custody order regarding that child; and

(3) the term "commencement of proceedings", as used in article 12 of the Convention, means, with respect to the return of a child located in the United States, the filing of a petition in accordance with subsection (b) of this section.

(g) FULL FAITH AND CREDIT.—Full faith and credit shall be accorded by the courts of the States and the courts of the United States to the judgment of any other such court ordering or denying the return of a child, pursuant to the Convention, in an action brought under this Act.

(h) REMEDIES UNDER THE CONVENTION NOT EXCLUSIVE.—The remedies established by the Convention and this Act shall be in addition to remedies available under other laws or international agreements.

**SEC. 5.[5] PROVISIONAL REMEDIES.**

(a) AUTHORITY OF COURTS.—In furtherance of the objectives of article 7(b) and other provisions of the Convention, and subject to the provisions of subsection (b) of this section, any court exercising jurisdiction of an action brought under section 4(b) of this Act may take or cause to be taken measures under Federal or State law, as appropriate, to protect the well-being of the child involved or to prevent the child's further removal or concealment before the final disposition of the petition.

(b) LIMITATION ON AUTHORITY.—No court exercising jurisdiction of an action brought under section 4(b) may, under subsection (a) of this section, order a child removed from a person having physical control of the child unless the applicable requirements of State law are satisfied.

**SEC. 6.[6] ADMISSIBILITY OF DOCUMENTS.**

With respect to any application to the United States Central Authority, or any petition to a court under section 4, which seeks relief under the Convention, or any other documents or information included with such application or petition or provided after such submission which relates to the application or petition, as the case may be, no authentication of such application, petition, document, or information shall be required in order for the application, petition, document, or information to be admissible in court.

**SEC. 7.[7] UNITED STATES CENTRAL AUTHORITY.**

(a) DESIGNATION.—The President shall designate a Federal agency to serve as the Central Authority for the United States under the Convention.

[5] 42 U.S.C. 11604.
[6] 42 U.S.C. 11605.
[7] 42 U.S.C. 11606.

(b) FUNCTIONS.—The functions of the United States Central Authority are those ascribed to the Central Authority by the Convention and this Act.

(c) REGULATORY AUTHORITY.—The United States Central Authority is authorized to issue such regulations as may be necessary to carry out its function under the Convention and this Act.

(d) OBTAINING INFORMATION FROM PARENT LOCATOR SERVICE.—The United States Central Authority may, to the extent authorized by the Social Security Act, obtain information from the Parent Locator Service.

(e)[8] GRANT AUTHORITY.—The United States Central Authority is authorized to make grants to, or enter into contracts or agreements with, any individual, corporation, other Federal, State, or local agency, or private entity or organization in the United States for purposes of accomplishing its responsibilities under the Convention and this Act.

(f)[9] LIMITED LIABILITY OF PRIVATE ENTITIES ACTING UNDER THE DIRECTION OF THE UNITED STATES CENTRAL AUTHORITY.—

(1) LIMITATION ON LIABILITY.—Except as provided in paragraphs (2) and (3), a private entity or organization that receives a grant from or enters into a contract or agreement with the United States Central Authority under subsection (e) of this section for purposes of assisting the United States Central Authority in carrying out its responsibilities and functions under the Convention and this Act, including any director, officer, employee, or agent of such entity or organization, shall not be liable in any civil action sounding in tort for damages directly related to the performance of such responsibilities and functions as defined by the regulations issued under subsection (c) of this section that are in effect on October 1, 2004.

(2) EXCEPTION FOR INTENTIONAL, RECKLESS, OR OTHER MISCONDUCT.—The limitation on liability under paragraph (1) shall not apply in any action in which the plaintiff proves that the private entity, organization, officer, employee, or agent described in paragraph (1), as the case may be, engaged in intentional misconduct or acted, or failed to act, with actual malice, with reckless disregard to a substantial risk of causing injury without legal justification, or for a purpose unrelated to the performance of responsibilities or functions under this Act.

(3) EXCEPTION FOR ORDINARY BUSINESS ACTIVITIES.—The limitation on liability under paragraph (1) shall not apply to any alleged act or omission related to an ordinary business activity, such as an activity involving general administration or operations, the use of motor vehicles, or personnel management.

[8] Sec. 2213 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (subdivision B of division G of Public Law 105–277; 112 Stat. 2681–812), added subsec. (e).

[9] Sec. 2 of the Prevention of Child Abduction Partnership Act (Public Law 108–370; 118 Stat. 1750) added subsec. (f).

**SEC. 8.[10] COSTS AND FEES.**

(a) ADMINISTRATIVE COSTS.—No department, agency, or instrumentality of the Federal Government or of any State or local government may impose on an applicant any fee in relation to the administrative processing of applications submitted under the Convention.

(b) COSTS INCURRED IN CIVIL ACTIONS.—(1) Petitioners may be required to bear the costs of legal counsel or advisors, court costs incurred in connection with their petitions, and travel costs for the return of the child involved and any accompanying persons, except as provided in paragraphs (2) and (3).

(2) Subject to paragraph (3), legal fees or court costs incurred in connection with an action brought under section 4 shall be borne by the petitioner unless they are covered by payments from Federal, State, or local legal assistance or other programs.

(3) Any court ordering the return of a child pursuant to an action brought under section 4 shall order the respondent to pay necessary expenses incurred by or on behalf of the petitioner, including court costs, legal fees, foster home or other care during the course of proceedings in the action, and transportation costs related to the return of the child, unless the respondent establishes that such order would be clearly inappropriate.

**SEC. 9.[11] COLLECTION, MAINTENANCE, AND DISSEMINATION OF INFORMATION.**

(a) IN GENERAL.—In performing its functions under the Convention, the United States Central Authority may, under such conditions as the Central Authority prescribes by regulation, but subject to subsection (c), receive from or transmit to any department agency, or instrumentality of the Federal Government or of any State or foreign government, and receive from or transmit to any applicant, petitioner, or respondent, information necessary to locate a child or for the purpose of otherwise implementing the Convention with respect to a child, except that the United States Central Authority—

(1) may receive such information from a Federal or State department, agency, or instrumentality only pursuant to applicable Federal and State statues; and

(2) may transmit any information received under this subsection notwithstanding any provision of law other than this Act.

(b) REQUESTS FOR INFORMATION.—Requests for information under this section shall be submitted in such manner and form as the United States Central Authority may prescribe by regulation and shall be accompanied or supported by such documents as the United States Central Authority may require.

(c) RESPONSIBILITY OF GOVERNMENT ENTITIES.—Whenever any department, agency, or instrumentality of the United States or of any State receives a request from the United States Central Authority for information authorized to be provided to such Central Authority under subsection (a), the head of such department, agency, or instrumentality shall promptly cause a search to be made of

[10] 42 U.S.C. 11607.
[11] 42 U.S.C. 11608.

the files and records maintained by such department, agency, or instrumentality in order to determine whether the information requested is contained in any such files or records. If such search discloses the information requested, the head of such department, agency, or instrumentality shall immediately transmit such information to the United States Central Authority, except that any such information the disclosure of which—

(1) would adversely affect the national security interests of the United States or the law enforcement interests of the United States or of any State; or

(2) would be prohibited by section 9 of title 13, United States Code;

shall not be transmitted to the Central Authority. The head of such department, agency, or instrumentality shall, immediately upon completion of the requested search, notify the Central Authority of the results of the search, and whether an exception set forth in paragraph (1) or (2) applies. In the event that the United States Central Authority receives information and the appropriate Federal or State department, agency, or instrumentality thereafter notifies the Central Authority that an exception set forth in paragraph (1) or (2) applies to that information, the Central Authority may not disclose that information under subsection (a).

(d) INFORMATION AVAILABLE FROM PARENT LOCATOR SERVICE.—To the extent that information which the United States Central Authority is authorized to obtain under the provisions of subsection (c) can be obtained through the Parent Locator Service, the United States Central Authority shall first seek to obtain such information from the Parent Locator Service, before requesting such information directly under the provisions of subsection (c) of this section.

(e) RECORDKEEPING.—The United States Central Authority shall maintain appropriate records concerning its activities and the disposition of cases brought to its attention.

**SEC. 10.[12] INTERAGENCY COORDINATING GROUP.**

The Secretary of State, the Secretary of Health and Human Services, and the Attorney General shall designate Federal employees and may, from time to time, designate private citizens to serve on an interagency coordinating group to monitor the operation of the Convention and to provide advice on its implementation tot he United States Central Authority and other Federal agencies. This group shall meet from time to time at the request of the United States Central Authority. The agency in which the United States Central Authority is located is authorized to reimburse such private citizens for travel and other expenses incurred in participating at meetings of the interagency coordinating group at rates not to exceed those authorized under subchapter I of chapter 57 of title 5, United States Code, for employees of agencies.

**SEC. 11. AGREEMENT FOR USE OF PARENT LOCATOR SERVICE IN DETERMINING WHEREABOUTS OF PARENT OR CHILD.**

Section 463 of the Social Security Act (42 U.S.C. 663) is amended * * *

[12] 42 U.S.C. 11609.

**SEC. 12.[13] AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the purpose of the Convention and this Act.

[13] 42 U.S.C. 11610.

## d. Relating to the Implementation of the Convention on the Civil Aspects of International Child Abduction

**Executive Order 12648, August 11, 1988, 53 F.R. 30637, 42 U.S.C. 11606 note**

The United States of America deposited its instrument of ratification of the Hague Convention on the Civil Aspects of International Child Abduction ("Convention') on April 29, 1988. The Convention entered into force for the United States on July 1, 1988. Article 6 of the Convention imposes upon Contracting States an obligation to designate a "Central Authority" for the purpose of discharging certain specified functions.

In order that the Government of the United States of America may give full and complete effect to the Convention, and pursuant to section 7 of the International Child Abduction Remedies Act, Public Law 100–300 (1988), it is expedient and necessary that I designate a Central Authority within the Executive branch of said Government:

NOW THEREFORE, by virtue of the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of Title 3 of the United States Code and section 7 of the International Child Abduction Remedies Act, it is ordered as follows:

**Section 1.** *Designation of Central Authority.* The Department of State is hereby designated as the Central Authority of the United States for purposes of the Hague Convention on the Civil Aspects of International Child Abduction. The Secretary of State is hereby authorized and empowered, in accordance with such regulations as he may prescribe, to perform all lawful acts that may be necessary and proper in order to execute the functions of the Central Authority in a timely and efficient manner.

## e. Child Health Revolution

**Public Law 98–198 [S.J. Res. 111], 97 Stat. 1355, approved December 1, 1983**

JOINT RESOLUTION Expressing the sense of the Congress with respect to international efforts to further a revolution in child health.

Whereas the report entitled "State of the World's Children, 1982–83" of the United Nations Children's Fund (hereafter in this joint resolution referred to as "UNICEF") offers unprecedented hope for a "revolution in child health" which could save the lives of up to twenty thousand of the forty thousand children who perish daily around the world from malnutrition and disease;

Whereas the techniques involved in this health revolution including oral rehydration home treatment, low-cost vaccines which do not require refrigeration, promotion of breast-feeding, and use of child growth charts to detect malnutrition, are estimated to cost only a few dollars per child;

Whereas this UNICEF report and the activities of UNICEF have been widely acclaimed by the Secretary General of the United Nations and the heads of the governments of such countries as the United Kingdom, France, Sweden, India, and Pakistan; and

Whereas the President of the United States on April 18, 1983, has issued a statement endorsing this health revolution for children and calling on the cooperation of United States Government agencies with international organizations and agencies associated in this effort: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That it is the sense of the Congress that—

(1) the techniques articulated by UNICEF in its report entitled "The State of the World's Children, 1982–1983" represent an unprecedented low-cost opportunity to significantly reduce child mortality and morbidity throughout the world, and have the full support and encouragement of the Congress at a time of economic difficulty and constriction for all countries;

(2) the President be commended for taking steps to promote, encourage, and undertake activities to further the objectives of the child health revolution and for directing all appropriate United States Government agencies, including the Department of State, the Agency for International Development, and the Department of Health and Human Services to support and cooperate with UNICEF, the World Health Organization, the United Nations Development Program, and other international financial and assistance agencies participating in fostering this child health revolution; and

(3) other public and private organizations involved in health, education, finance, labor, communications, and humanitarian assistance should cooperate with and support the efforts of the

United States to further the objectives of the child health revolution.

## Appendix I

NOTE.—Appendix I lists Public Laws included in *Legislation on Foreign Relations Through 2008*, either as free-standing law or in amendments, arranged by Public Law number with corresponding short title or popular name.

| Public Law No. | Short Title |
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| 111–8 | Omnibus Appropriations Act, 2009 |
| 111–8 | Department of State, Foreign Operations, and Related Programs Appropriations Act, 2009 (division H) |
| 110–457 | William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 |
| 110–457 | Child Soldiers Prevention Act of 2008 (title IV) |
| 110–429 | Naval Vessel Transfer Act of 2008 |
| 110–417 | Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 |
| 110–369 | United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act |
| 110–329 | Department of Defense Appropriations Act, 2009 |
| 110–181 | National Defense Authorization Act for Fiscal Year 2008 |
| 110–140 | Energy Independence and Security Act of 2007 |
| 110–53 | Implementing Recommendations of the 9/11 Commission Concerning Nonproliferation and Terrorism |
| 110–17 | NATO Freedom Consolidation Act of 2007 |
| 109–472 | Department of State Authorities Act, 2006 |
| 109–456 | Democratic Republic of the Congo Relief, Security, and Democracy Promotion Act of 2006 |
| 109–401 | United States Additional Protocol Implementation Act |
| 109–366 | Military Commissions Act of 2006 |
| 109–364 | John Warner National Defense Authorization Act for Fiscal Year 2007 |
| 109–353 | North Korea Nonproliferation Act of 2006 |
| 109–248 | Adam Walsh Child Protection and Safety Act of 2006 |
| 109–177 | USA PATRIOT Improvement and Reauthorization Act of 2005 |
| 109–177 | Secret Service Authorization and Technical Modification Act of 2005 |

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| 109–169 | United States-Bahrain Free Trade Agreement Implementation Act |
| 109–167 | Passport Services Enhancement Act of 2005 |
| 109–165 | Torture Victims Relief Reauthorization Act of 2005 |
| 109–164 | Trafficking Victims Protection Reauthorization Act of 2005 |
| 109–163 | National Defense Authorization Act for Fiscal Year 2006 |
| 109–163 | United States Policy in Iraq Act (section 1227) |
| 109–163 | Detainee Treatment Act of 2005 (title XIV) |
| 109–159 | Transfer of Items To War Reserves Stockpile for Allies, Korea |
| 109–148 | Department of Defense, Emergency Supplemental Appropriations To Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 |
| 109–148 | Emergency Supplemental Appropriations Act To Address Hurricanes in the Gulf of Mexico and Pandemic Influenza Act, 2006 (division B) |
| 109–140 | To Provide Certain Authorities for the Department of State |
| 109–134 | Naval Vessels Transfer Act of 2005 |
| 109–121 | Senator Paul Simon Water for the Poor Act of 2005 |
| 109–112 | Iran Nonproliferation Amendments Act of 2005 |
| 109–108 | Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 |
| 109–108 | Department of State and Related Agencies Appropriations Act, 2006 (title IV) |
| 109–102 | Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 |
| 109–97 | Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006 |
| 109–95 | Assistance for Orphans and Other Vulnerable Children in Developing Countries Act of 2005 |
| 109–77 | Continuing Appropriations, Fiscal Year 2006 |
| 109–58 | Energy Policy Act of 2005 |
| 109–54 | Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 |
| 109–53 | Dominican Republic-Central America-United States Free Trade Agreement Implementation Act |
| 109–39 | Renewal of Import Restrictions—Burmese Freedom and Democracy Act of 2003 |
| 109–13 | Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 |
| 109–2 | Class Action Fairness Act of 2005 |
| 108–497 | Comprehensive Peace in Sudan Act of 2004 |
| 108–484 | Microenterprise Results and Accountability Act of 2004 |
| 108–458 | Intelligence Reform and Terrorism Prevention Act of 2004 |
| 108–458 | Afghanistan Freedom Support Act Amendments of 2004 (sec. 7104) |
| 108–447 | Consolidated Appropriations Act, 2005 |

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| 108–447 | Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D) |
| 108–447 | Migratory Bird Treaty Reform Act of 2004 (division E, sec. 143) |
| 108–447 | Miscellaneous Appropriations and Offsets Act, 2005 (division J, title I) |
| 108–429 | Miscellaneous Trade and Technical Corrections Act of 2004 |
| 108–375 | Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 |
| 108–370 | Prevention of Child Abduction Partnership Act |
| 108–347 | Belarus Democracy Act of 2004 |
| 108–333 | North Korean Human Rights Act of 2004 |
| 108–332 | Global Anti-Semitism Review Act of 2004 |
| 108–323 | Tropical Forest Conservation Act Reauthorization |
| 108–302 | United States-Morocco Free Trade Agreement Implementation Act |
| 108–297 | Cape Town Treaty Implementation Act of 2004 |
| 108–286 | United States-Australia Free Trade Agreement Implementation Act |
| 108–283 | Northern Uganda Crisis Response Act |
| 108–274 | AGOA Acceleration Act of 2004 |
| 108–272 | Approving the Renewal of Import Restrictions—Burma |
| 108–266 | Marine Turtle Conservation Act of 2004 |
| 108–235 | Taiwan's Participation in the World Health Organization |
| 108–215 | Amendments to U.S.–Mexico Agreement Establishing a Border Environment Cooperation Commission and North American Development Bank |
| 108–200 | Congo Basin Forest Partnership Act of 2004 |
| 108–199 | Consolidated Appropriations, 2004 |
| 108–199 | Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (division D) |
| 108–199 | HELP Commission Act (division B, sec. 637) |
| 108–199 | Millennium Challenge Act of 2003 (division D, title VI) |
| 108–175 | Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 |
| 108–136 | National Defense Authorization Act for Fiscal Year 2004 |
| 108–136 | Nuclear Security Initiative Act of 2003 (title XXXVI) |
| 108–106 | Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 |
| 108–77 | United States-Chile Free Trade Agreement Implementation Act |
| 108–31 | Microenterprise Report to Congress |
| 108–28 | Taiwan's Participation in the World Health Organization |
| 108–25 | United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 |
| 108–19 | Clean Diamond Trade Act |

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| 108–11 | Emergency Wartime Supplemental Appropriations Act, 2003 |
| 108–7 | Consolidated Appropriations, 2003 |
| 107–365 | Caribbean National Forest Wild and Scenic Rivers Act of 2002 |
| 107–327 | Afghanistan Freedom Support Act of 2002 |
| 107–314 | Bob Stump National Defense Authorization Act for Fiscal Year 2003 |
| 107–258 | Persian Gulf POW/MIA Accountability Act of 2002 |
| 107–246 | Russian Democracy Act of 2002 |
| 107–245 | Sudan Peace Act |
| 107–243 | Authorization for Use of Military Force Against Iraq Resolution of 2002 |
| 107–228 | Foreign Relations Authorization Act, Fiscal Year 2003 |
| 107–228 | Department of State Authorization Act, Fiscal Year 2003 (division A) |
| 107–228 | Security Assistance Act of 2002 (division B) |
| 107–228 | Middle East Peace Commitments Act of 2002 (division A, title VI, subtitle A) |
| 107–228 | Tibetan Policy Act of 2002 (division A, title VI, subtitle B) |
| 107–228 | East Timor Transition to Independence Act of 2002 (division A, title VI, subtitle C) |
| 107–228 | Clean Water for the Americas Partnership Act of 2002 (division A, title VI, subtitle D) |
| 107–228 | Freedom Investment Act of 2002 (division A, title VI, subtitle E) |
| 107–228 | Russian Federation Debt for Nonproliferation Act of 2002 (division B, title XIII, subtitle B) |
| 107–228 | Nonproliferation Assistance Coordination Act of 2002 (division B, title XIII, subtitle C) |
| 107–228 | Iran Nuclear Proliferation Prevention Act of 2002 (division B, title XIII, subtitle D) |
| 107–210 | Trade Act of 2002 |
| 107–210 | Andean Trade Promotion and Drug Eradication Act (title XXXI) |
| 107–206 | 2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States |
| 107–206 | American Servicemembers Protection Act (title II) |
| 107–197 | Terrorist Bombings Convention Implementation Act of 2002 |
| 107–189 | Export-Import Bank Reauthorization Act of 2002 |
| 107–187 | Gerald B. H. Solomon Freedom Consolidation Act of 2002 |
| 107–173 | Enhanced Border Security and Visa Entry Reform Act of 2002 |
| 107–148 | Radio Free Afghanistan Act |
| 107–141 | Asian Elephant Conservation Reauthorization Act of 2002 |
| 107–117 | Department of Defense and Emergency Supplemental Appropriations for Recovery From and Response To Terrorist Attacks on the United States Act, 2002 |

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| 107–115 | Kenneth M. Ludden Foreign Operations, Export Financing and Related Programs Appropriations Act, 2002 |
| 107–112 | Rhinoceros and Tiger Conservation Reauthorization Act of 2001 |
| 107–111 | African Elephant Conservation Reauthorization Act of 2001 |
| 107–107 | National Defense Authorization Act for Fiscal Year 2002 |
| 107–99 | Zimbabwe Democracy and Economic Recovery Act of 2001 |
| 107–81 | Afghan Women and Children Relief Act of 2001 |
| 107–56 | Uniting and Strengthening America By Providing Appropriate Tools Required To Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 |
| 107–56 | International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 (title III) |
| 107–43 | United States-Jordan Free Trade Area Implementation Act |
| 107–40 | Authorization for Use of Military Force [international terrorism] |
| 107–39 | Condemnation of Terrorist Attacks |
| 107–24 | ILSA [Iran and Libya Sanctions Act] Extension Act of 2001 |
| 106–570 | Assistance for International Malaria Control Act |
| 106–570 | International Malaria Control Act (title I) |
| 106–570 | United States-Macau Policy Act of 2000 (title II) |
| 106–570 | Pacific Charter Commission Act of 2000 (title IV) |
| 106–570 | Paul D. Coverdell World Wise Schools Act of 2000 (title VI) |
| 106–567 | Intelligence Authorization Act for Fiscal Year 2001 |
| 106–567 | Japanese Imperial Government Disclosure Act of 2000 (title VIII) |
| 106–557 | Shark Finning Prohibition Act |
| 106–555 | Striped Bass Conservation, Atlantic Coastal Fisheries Management and Marine Mammal Rescue Assistance Act of 2000 |
| 106–554 | Consolidated Appropriations Act, 2001 |
| 106–554 | Vietnam Education Foundation Act of 2000 (title II) |
| 106–553 | Department of State and Related Agency Appropriations Act, 2001 |
| 106–531 | Reports Consolidation Act of 2000 |
| 106–484 | Bring Them Home Alive Act of 2000 |
| 106–476 | Tariff Suspension and Trade Act of 2000 |
| 106–450 | Yukon River Salmon Act of 2000 |
| 106–429 | Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 |
| 106–411 | Great Ape Conservation Act of 2000 |
| 106–398 | Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 |
| 106–387 | Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 |

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| 106–387 | Trade Sanctions Reform and Export Enhancement Act of 2000 (title IX) |
| 106–386 | Victims of Trafficking and Violence Protection Act of 2000 |
| 106–386 | Trafficking Victims Protection Act of 2000 (division A) |
| 106–373 | Famine Prevention and Freedom From Hunger Improvement Act of 2000 |
| 106–346 | National Terrorist Asset Trading Center |
| 106–309 | Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000 |
| 106–309 | Microenterprise for Self-Reliance Act of 2000 (title I) |
| 106–309 | International Anti-Corrpution and Good Governance Act of 2000 (title II) |
| 106–309 | International Academic Opportunities Act of 2000 (title III) |
| 106–309 | Support for Overseas Cooperative Development Act (sec. 401) |
| 106–309 | Paul D. Coverdell Fellows Program Act of 2000 (sec. 408) |
| 106–286 | U.S.-China Relations Act of 2000 |
| 106–280 | Security Assistance Act of 2000 |
| 106–279 | Intercountry Adoption Act of 2000 |
| 106–264 | Global AIDS and Tuberculosis Relief Act of 2000 |
| 106–264 | Global AIDS Research and Relief Act of 2000 (title I) |
| 106–264 | International Tuberculosis Control Act of 2000 (title II) |
| 106–256 | Oceans Act of 2000 |
| 106–247 | Neotropical Migratory Bird Conservation Act |
| 106–212 | American Institute in Taiwan Facilities Enhancement Act |
| 106–200 | Trade and Development Act of 2000 |
| 106–200 | African Growth and Opportunity Act (title I) |
| 106–200 | U.S.-Caribbean Basin Trade Partnership Act (title II) |
| 106–178 | Iran Nonproliferation Act of 2000 |
| 106–158 | Export Enhancement Act of 1999 |
| 106–120 | Intelligence Authorization Act for Fiscal Year 2000 |
| 106–120 | Foreign Narcotics Kingpin Designation Act (title VIII) |
| 106–113 | Consolidated Appropriations, Fiscal Year 2000 |
| 106–113 | Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference) |
| 106–113 | Silk Road Strategy Act of 1999 (sec. 596, H.R. 3422, enacted by reference) |
| 106–113 | Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference) |
| 106–113 | Secure Embassy Construction and Counterterrorism Act of 1999 (title VI, division A, H.R. 3427, enacted by reference) |
| 106–113 | North Korea Threat Reduction Act of 1999 (subtitle B, title VIII, division A, H.R. 3427, enacted by reference) |
| 106–113 | United Nations Reform Act of 1999 (title IX, division A, H.R. 3427, enacted by reference) |

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| 106–113 | Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B, H.R. 3427, enacted by reference) |
| 106–113 | Arms Control and Nonproliferation Act of 1999 (title XI, division B, H.R. 3427, enacted by reference) |
| 106–113 | National Security and Corporate Fairness under the Biological Weapons Convention Act (chapter 2, subtitle A, title XI, division B, H.R. 3427, enacted by reference) |
| 106–113 | Security Assistance Act of 1999 (title XII, H.R. 3427, enacted by reference) |
| 106–113 | Defense Offsets Disclosure Act of 1999 (subtitle D, title XII, H.R. 3427, enacted by reference) |
| 106–113 | Proliferation Prevention Enhancement Act of 1999 (subtitle E, title XII, H.R. 3427, enacted by reference) |
| 106–113 | International Arms Sales Code of Conduct Act of 1999 (subtitle F, title XII, H.R. 3427, enacted by reference) |
| 106–108 | Arctic Tundra Habitat Emergency Conservation Act |
| 106–87 | Torture Victims Relief Reauthorization Act of 1999 |
| 106–79 | Department of Defense Appropriations Act, 2000 |
| 106–65 | National Defense Authorization Act for Fiscal Year 2000 |
| 106–65 | Panama Canal Commission Authorization Act for Fiscal Year 2000 (title XXXV) |
| 106–38 | National Missile Defense Act of 1999 |
| 106–36 | Miscellaneous Trade and Technical Corrections Act of 1999 |
| 106–35 | Western Hemisphere Drug Elimination Technical Corrections Act |
| 106–30 | Peace Corps Reauthorization |
| 105–385 | Africa: Seeds of Hope Act of 1998 |
| 105–384 | Governing International Fisheries Agreement with Poland |
| 105–382 | Department of State Special Agents Retirement Act of 1998 |
| 105–366 | International Anti-Bribery and Fair Competition Act of 1998 |
| 105–362 | Federal Reports Elimination Act of 1998 |
| 105–338 | Iraq Liberation Act of 1998 |
| 105–323 | Extradition Treaties Interpretation Act of 1998 |
| 105–319 | Irish Peace Process Cultural and Training Program Act of 1998 |
| 105–312 | Rhinoceros and Tiger Conservation Act of 1998 |
| 105–303 | Commercial Space Act of 1998 |
| 105–292 | International Religious Freedom Act of 1998 |
| 105–277 | Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999 |
| 105–277 | Haitian Refugee Immigration Fairness Act of 1998 (division A, sec. 101(h), title IX) |
| 105–277 | Trade Deficit Review Commission Act (division A, sec. 127) |

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| 105–277 | Office of National Drug Control Policy Reauthorization Act of 1998 (division C, title VII) |
| 105–277 | Western Hemisphere Drug Elimination Act (division C, title VIII) |
| 105–277 | Foreign Affairs Reform and Restructuring Act of 1998 (division G) |
| 105–277 | Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A) |
| 105–277 | Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (division G, subdivision B) |
| 105–277 | United Nations Reform Act of 1998 (division G, subdivision C) |
| 105–277 | European Security Act of 1998 (division G, title XXVII) |
| 105–277 | Chemical Weapons Convention Implementation Act of 1998 (division I) |
| 105–262 | Department of Defense Appropriations Act, 1999 |
| 105–261 | Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 |
| 105–261 | Defense Against Weapons of Mass Destruction Act of 1998 (title XIV) |
| 105–261 | Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV) |
| 105–261 | Radio Free Asia Act of 1998 (title XXXIX) |
| 105–246 | Nazi War Crimes Disclosure Act |
| 105–235 | Finding the Government of Iraq in Unacceptable and Material Breach of Its International Obligations |
| 105–217 | African Elephant Conservation Reauthorization Act of 1998 |
| 105–194 | Agriculture Export Relief Act of 1998 |
| 105–186 | U.S. Holocaust Assets Commission Act of 1998 |
| 105–174 | 1998 Supplemental Appropriations and Rescissions Act |
| 105–173 | International Parental Kidnapping Crime Act |
| 105–158 | Holocaust Victims Redress Act |
| 105–119 | Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 |
| 105–107 | Intelligence Authorization Act for Fiscal Year 1998 |
| 105–100 | Nicaraguan Adjustment and Central American Relief Act (title II) |
| 105–96 | Asian Elephant Conservation Act of 1997 |
| 105–85 | National Defense Authorization Act for Fiscal Year 1998 |
| 105–42 | International Dolphin Conservation Program Act |
| 104–319 | Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996 |
| 104–309 | Records Relating to Nazi War Crimes |
| 104–297 | Sustainable Fisheries Act |
| 104–293 | Intelligence Authorization Act for Fiscal Year 1997 |
| 104–293 | Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII) |
| 104–269 | Release of USIA Materials: VOA, Radio Marti Recordings |

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| 104–264 | Federal Aviation Reauthorization Act of 1996 |
| 104–227 | Antarctic Science, Tourism, and Conservation Act of 1996 |
| 104–208 | Omnibus Consolidated Appropriations for Fiscal Year 1997 |
| 104–208 | Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (title I, sec. 101(c)) |
| 104–203 | Most-Favored-Nation Treatment for Cambodia |
| 104–201 | National Defense Authorization Act for Fiscal Year 1997 |
| 104–201 | Defense Against Weapons of Mass Destruction Act of 1996 (title XIV) |
| 104–201 | Panama Canal Commission Authorization Act for Fiscal Year 1997 (title XXXV, subtitle A) |
| 104–201 | Panama Canal Act Amendments of 1996 (title XXXV, subtitle B) |
| 104–172 | Iran and Libya Sanctions Act of 1996 |
| 104–171 | Most-Favored-Nation Treatment for Romania |
| 104–164 | Miscellaneous Amendments and Authorization—FYs 1996 and 1997 |
| 104–162 | Most-Favored-Nation Treatment for People's Republic of Bulgaria |
| 104–161 | Release of USIA Materials: "Fragile Ring of Life" |
| 104–132 | Antiterrorism and Effective Death Penalty Act of 1996 |
| 104–127 | Federal Agriculture Improvement and Reform Act of 1996 |
| 104–114 | Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 |
| 104–106 | National Defense Authorization Act for Fiscal Year 1996 |
| 104–106 | Ballistic Missile Defense Act of 1995 (title II, subtitle C) |
| 104–93 | Intelligence Authorization Act for Fiscal Year 1996 |
| 104–72 | Au Pair Extension |
| 104–66 | Federal Reports Elimination and Sunset Act of 1995 |
| 104–45 | Jerusalem Embassy Act of 1995 |
| 104–43 | Fisheries Act of 1995 |
| 104–43 | High Seas Fishing Compliance Act of 1995 (title I) |
| 104–43 | Northwest Atlantic Fisheries Convention Act of 1995 (title II) |
| 104–43 | Atlantic Tunas Convention Act of 1995 (title III) |
| 104–43 | Sea of Okhotsk Fisheries Enforcement Act of 1995 (title V) |
| 104–43 | High Seas Driftnet Fishing Moratorium Protection Act (title VI) |
| 104–43 | Yukon River Salmon Act of 1995 (title VII) Act for Fiscal Year 1997 |
| 104–6 | Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995 |
| 104–6 | Mexican Debt Disclosure Act of 1995 (title IV) |
| 103–465 | Uruguay Rounds Agreements Act |

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| 103–465 | Export Enhancement Program Amendments of 1994 (title IV, subtitle A, part II, sec. 411(a)) |
| 103–447 | International Narcotics Control Corrections Act of 1994 |
| 103–447 | NATO Participation Act of 1994 (title II) |
| 103–423 | United States Policy Toward Haiti |
| 103–416 | Visa for Officials of Taiwan |
| 103–392 | Jobs Through Trade Expansion Act of 1994 |
| 103–391 | Rhinoceros and Tiger Conservation Act of 1994 |
| 103–381 | African Conflict Resolution Act |
| 103–372 | To Provide for an Investigation of the Whereabouts of U.S. Citizens Missing From Cyprus Since 1974 |
| 103–337 | National Defense Authorization Act for Fiscal Year 1995 |
| 103–306 | Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 |
| 103–294 | Helsinki Human Rights Day |
| 103–236 | Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 |
| 103–236 | Mike Mansfield Fellowship Act (title II, part C) |
| 103–236 | United States International Broadcasting Act of 1994 (title III) |
| 103–236 | Spoils of War Act of 1994 (title V, part B) |
| 103–236 | Anti-Economic Discrimination Act of 1994 (title V, part C) |
| 103–236 | Cambodian Genocide Justice Act (title V, part D) |
| 103–236 | Middle East Peace Facilitation Act of 1994 (title V, part E) |
| 103–236 | Arms Control and Nonproliferation Act of 1994 (title VII, part A) |
| 103–236 | Nuclear Proliferation Prevention Act of 1994 (title VIII) |
| 103–236 | Protection and Reduction of Government Secrecy Act (title IX) |
| 103–206 | Coast Guard Authorization Act of 1993 |
| 103–199 | Act For Reform in Emerging New Democracies and Support and Help for Improved Partnership with Russia, Ukraine, and Other New Independent States (FRIENDSHIP Act) |
| 103–182 | North American Free Trade Agreement Implementation Act |
| 103–160 | National Defense Authorization Act for Fiscal Year 1994 |
| 103–160 | Cooperative Threat Reduction Act of 1993 (title XII) |
| 103–160 | Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1993 (title XIII) |
| 103–160 | National Shipbuilding and Shipyard Conversion Act of 1993 (title XIII, subtitle D) |
| 103–160 | Panama Canal Commission Authorization Act for Fiscal Year 1994 (title XXXV) |
| 103–158 | Act to Honor the Victims of the Bombing of Panam Flight 103 |
| 103–149 | South African Democratic Transition Support Act of 1993 |

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| 103–133 | Nondiscriminatory Treatment Toward Products of Romania |
| 103–125 | Middle East Peace Facilitation Act of 1993 |
| 102–588 | National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993 |
| 102–587 | Oceans Act of 1992 |
| 102–587 | North Pacific Anadromous Stocks Convention Act of 1992 (title VIII) |
| 102–582 | High Seas Driftnet Fisheries Enforcement Act |
| 102–582 | Central Bering Sea Fisheries Enforcement Act of 1992 (title III) |
| 102–567 | North Pacific Anadromous Stocks Act of 1992 (title VIII) |
| 102–565 | Peace Corps Authorization for Fiscal Year 1993 |
| 102–549 | Jobs Through Exports Act of 1992 |
| 102–549 | Aid, Trade, and Competitiveness Act of 1992 (title III) |
| 102–549 | Enterprise for the Americas Act of 1992 (title VI) |
| 102–532 | Enterprise for the Americas Initiative Act of 1992 |
| 102–523 | International Dolphin Conservation Act of 1992 |
| 102–511 | Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (FREEDOM Support Act) |
| 102–509 | Soviet Scientists Immigration Act of 1992 |
| 102–486 | Energy Policy Act of 1992 |
| 102–484 | National Defense Authorization Act for Fiscal Year 1993 |
| 102–484 | Former Soviet Union Demilitarization Act of 1992 (title XIV) |
| 102–484 | Weapons of Mass Destruction Control Act of 1992 (title XV) |
| 102–484 | Iran-Iraq Arms Non-Proliferation Act of 1992 (title XVI) |
| 102–484 | Cuban Democracy Act of 1992 (title XVII) |
| 102–484 | Panama Canal Commission Authorization Act for Fiscal Year 1993 (title XXXV) |
| 102–454 | Distribution of USIA Materials |
| 102–450 | Asian/Pacific American Heritage Month—Designation |
| 102–429 | Export Enhancement Act of 1992 |
| 102–420 | Withdrawal of MFN From Serbia and Montenegro |
| 102–404 | Chinese Student Protection Act of 1992 |
| 102–396 | Department of Defense Appropriations Act, 1993 |
| 102–391 | Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 |
| 102–383 | United States-Hong Kong Policy Act of 1992 |
| 102–372 | Tourism Policy and Export Promotion Act of 1992 |
| 102–363 | Nondiscriminatory Treatment Toward Products of Albania |
| 102–311 | International Peacekeeping Act of 1992 |
| 102–274 | Horn of Africa Recovery and Food Security Act |
| 102–270 | Peace Process in Liberia |
| 102–256 | Torture Victim Protection Act of 1991 |
| 102–247 | Omnibus Insular Areas Act of 1992 |
| 102–237 | Food, Agriculture, Conservation, and Trade Act Amendments of 1991 |

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| 102–228 | Conventional Forces in Europe Treaty Implementation Act of 1991 |
| 102–228 | Soviet Nuclear Threat Reduction Act of 1991 (title II) |
| 102–197 | Most-Favored Nation Treatment for the Union of Soviet Socialist Republics |
| 102–195 | National Aeronautics and Space Administration Authorization Act, Fiscal Year 1992 |
| 102–190 | National Defense Authorization Act for Fiscal Years 1992 and 1993 |
| 102–190 | Missile Defense Act of 1991 (title II, part C) |
| 102–190 | Panama Canal Commission Authorization Act for Fiscal Year 1992 (title XXXV) |
| 102–183 | David L. Boren National Security Education Act of 1991 (title VIII) |
| 102–182 | Termination of Trade Restrictions to Czechoslovakia and Hungary |
| 102–182 | Andean Trade Preference Act (title II) |
| 102–182 | Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III) |
| 102–158 | Most-Favored Nation Treatment for People's Republic of Bulgaria |
| 102–157 | Most-Favored Nation Treatment for Mongolian People's Republic |
| 102–138 | Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 |
| 102–138 | Dante B. Fascell North-South Center Act of 1991 (sec. 208) |
| 102–21 | Emergency Supplemental Assistance for Israel Act of 1991 |
| 102–20 | Foreign Relations Persian Gulf Conflict Emergency Supplemental Authorization Act, Fiscal Year 1991 |
| 102–1 | Authorization for Use of U.S. Armed Forces Pursuant to U.N. Security Council Resolution 678 |
| 101–649 | Immigration Act of 1990 |
| 101–647 | Crime Control Act of 1990 |
| 101–646 | Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 |
| 101–627 | Fishery Conservation Amendments of 1990 |
| 101–627 | Dolphin Protection Consumer Information Act (title IX) |
| 101–624 | Food, Agriculture, Conservation, and Trade Act of 1990 |
| 101–624 | Agricultural Development and Trade Act of 1990 (title XV) |
| 101–624 | Global Climate Change Prevention Act of 1990 (title XXIV) |
| 101–623 | International Narcotics Control Act of 1990 |
| 101–620 | Protection of Antarctica |
| 101–611 | National Aeronautics and Space Administration Authorization Act, Fiscal Year 1991 |
| 101–610 | National and Community Service Act of 1990 |
| 101–606 | Global Change Research Act of 1990 |
| 101–606 | International Cooperation in Global Change Research Act of 1990 (title II) |

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| 101–604 | Aviation Security Improvement Act of 1990 |
| 101–594 | Antarctic Protection Act of 1990 |
| 101–549 | Clean Air Act Amendments |
| 101–541 | Most-Favored-Nation Treatment for Czechoslovakia |
| 101–533 | Foreign Direct Investment and International Financial Date Improvements Act of 1990 |
| 101–513 | Foreign Operations, Export Financing, and Related Programs Appropriations Act 1991 |
| 101–513 | European Bank for Reconstruction and Development Act (sec. 562(c)) |
| 101–513 | Iraq Sanctions Act of 1990 (secs. 586–586J) |
| 101–513 | International Forestry Cooperation Act of 1990 (title VI) |
| 101–511 | Department of Defense Appropriations Act, 1991 |
| 101–510 | National Defense Authorization Act for Fiscal Year 1991 |
| 101–510 | Panama Canal Commission Authorization Act for Fiscal Year 1991 (title XXXV) |
| 101–454 | Eisenhower Exchange Fellowship Act of 1990 |
| 101–454 | Fascell Fellowship Amendments Act of 1990 (sec. 9) |
| 101–438 | Rio Grande American Canal Extension Act of 1990 |
| 101–382 | Customs and Trade Act of 1990 |
| 101–382 | Caribbean Basin Economic Recovery Expansion Act of 1990 (title II) |
| 101–382 | Forest Resources Conservation and Shortage Relief Act of 1990 (title IV) |
| 101–380 | Oil Pollution Act of 1990 |
| 101–328 | National Space Council Authorization Act of 1990 |
| 101–298 | Biological Weapons Anti-Terrorism Act of 1989 |
| 101–246 | Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 |
| 101–246 | PLO Commitments Compliance Act of 1989 (title VIII) |
| 101–243 | Urgent Assistance for Democracy in Panama Act of 1990 |
| 101–240 | International Development and Finance Act of 1989 |
| 101–240 | Foreign Debt Reserving Act of 1989 (title IV) |
| 101–240 | Global Environmental Protection Assistance Act of 1989 (title VII) |
| 101–231 | International Narcotics Control Act of 1989 |
| 101–219 | Implementation of Compact of Free Association With Palau |
| 101–216 | Arms Control and Disarmament Amendments Act of 1989 |
| 101–215 | Survival Assistance for Victims of Civil Strife in Central America |
| 101–189 | National Defense Authorization Act for Fiscal Years 1990 and 1991 |
| 101–179 | Support for East European Democracy (SEED) Act of 1989 |
| 101–167 | Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 |
| 101–162 | Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 |

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| 101–62 | Implementing Agreement for Vienna Convention on Diplomatic Relations |
| 100–690 | International Narcotics Control Act of 1988 (title IV) |
| 100–685 | National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 |
| 100–629 | U.S.-U.S.S.R. Fishing Agreement |
| 100–576 | Bangladesh Disaster Assistance Act of 1988 |
| 100–530 | International Cooperation to Protect Biological Diversity |
| 100–478 | African Elephant Conservation Act (title II) |
| 100–465 | Rio Grande Pollution Correction Act of 1987 |
| 100–463 | Department of Defense Appropriations Act, 1989 |
| 100–461 | Overseas Private Investment Corporation Amendments Act of 1988 (H.R. 5263, enacted by reference) |
| 100–461 | Miscellaneous International Affairs Authorization Act of 1988 (S. 2757, enacted by reference) |
| 100–460 | Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 |
| 100–456 | National Defense Authorization Act, Fiscal Year 1989 |
| 100–449 | United States-Canada Free Trade Agreement Implementation Act of 1988 |
| 100–418 | Omnibus Trade and Competitiveness Act of 1988 |
| 100–418 | Telecommunications Trade Act of 1988 (title I, subtitle C, part 4) |
| 100–418 | Export Enhancement Act 1988 (title II) |
| 100–418 | Fair Trade in Auto Parts Act of 1988 (title II, subtitle A, part II) |
| 100–418 | American Aid to Poland Act of 1988 (title II, subtitle B, part II) |
| 100–418 | Multilateral Export Control Enhancement Amendments Act (title II, subtitle D, part II) |
| 100–418 | Exchange Rates and International Economic Policy Coordination Act of 1988 (title III, subtitle A) |
| 100–418 | International Debt Management Act of 1988 (title III, subtitle B) |
| 100–418 | Multilateral Development Banks Procurement Act (title III, subtitle C) |
| 100–418 | Export-Import Bank and Tied Aid Credit Amendments of 1988 (title III, subtitle D) |
| 100–418 | Primary Dealers Act of 1988 (title III, subtitle F) |
| 100–418 | Financial Reports Act of 1988 (title III, subtitle G) |
| 100–418 | Agricultural Competitiveness and Trade Act of 1988 (title IV) |
| 100–418 | Pesticide Monitoring Improvements Act of 1988 (title IV, subtitle G) |
| 100–418 | Foreign Corrupt Practices Act Amendments of 1988 (title V, subtitle A, part I) |
| 100–418 | Competitiveness Policy Council Act (title V, part I, subtitle C) |
| 100–418 | Small Business International Trade and Competitiveness Act (title VII) |
| 100–418 | Foreign Shipping Practices Act of 1988 (title X) |
| 100–393 | Dire Emergency Supplemental Appropriations Act, 1988 |

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| 100–373 | International Energy Emergency Authorities: Extension |
| 100–350 | German Democratic Republic Fishery Agreement |
| 100–330 | South Pacific Tuna Act of 1988 |
| 100–300 | International Child Abduction Remedies Act |
| 100–276 | Central American Peace Assistance |
| 100–220 | United States-Japan Fishery Agreement Approval Act of 1987 |
| 100–220 | Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (title IV) |
| 100–213 | Arms Control and Disarmament Amendments Act of 1987 |
| 100–204 | Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 |
| 100–204 | United States Information Agency Authorization Act, Fiscal Years 1988 and 1989 (title II) |
| 100–204 | Board for International Broadcasting Authorization Act, Fiscal Years 1988 and 1989 (title V) |
| 100–204 | Anti-Terrorism Act of 1987 (title X) |
| 100–204 | Global Climate Protection Act of 1987 (title XI) |
| 100–202 | Continuing Appropriations, Fiscal Year 1988 |
| 100–202 | Cuban Political Prisoners and Immigrants (sec. 101(a), title VII) |
| 100–202 | Indochinese Refugee and Resettlement Act of 1987 (sec. 101(a), title VIII) |
| 100–202 | Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e)) |
| 100–202 | Multilateral Investment Guarantee Agency Act (sec. 101(e), H.R. 3570, enacted by reference, title IV) |
| 100–180 | National Defense Authorization Act for Fiscal Years 1988 and 1989 |
| 100–147 | National Aeronautics and Space Administration Authorization Act of 1988 |
| 100–113 | Federal Triangle Development Act |
| 100–66 | United States-Korea Fishery Agreement |
| 99–661 | National Defense Authorization Act, Fiscal Year 1987 |
| 99–661 | Department of Defense Authorization Act, 1987 (Division A) |
| 99–658 | Approval of the Compact of Free Association With the Government of Palau |
| 99–630 | Humpback Whales Wildlife Sanctuary (West Indies) |
| 99–603 | Immigration Reform and Control Act of 1986 |
| 99–570 | International Narcotics Control Act of 1986 (title II) |
| 99–529 | Special Foreign Assistance Act of 1986 |
| 99–513 | R.M.S. Titanic Maritime Memorial Act of 1986 |
| 99–498 | Higher Education Amendments of 1986 |
| 99–475 | Release of USIA Materials to Museums |
| 99–472 | Export-Import Bank Act Amendments of 1986 |
| 99–415 | Anglo-Irish Agreement Support Act of 1986 |
| 99–399 | Omnibus Diplomatic Security and Antiterrorism Act of 1986 |
| 99–399 | Diplomatic Security Act (titles I–IV) |
| 99–399 | Victims of Terrorism Compensation Act (title VIII) |

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| 99–399 | International Maritime and Port Security Act (title IX) |
| 99–399 | Fascell Fellowship Act (title X) |
| 99–239 | Compact of Free Association Act of 1985 |
| 99–198 | Food Security Act of 1985 |
| 99–198 | Food for Progress Act of 1985 (sec. 1110) |
| 99–190 | Further Continuing Appropriations, 1985 |
| 99–190 | Multilateral Development Bank Act of 1985 (sec. 101(i), H.R. 2253, enacted by reference) |
| 99–180 | Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1986 |
| 99–177 | Balanced Budget and Emergency Deficit Control Act of 1985 [Gramm-Rudman-Hollings Act] |
| 99–162 | Sales of Arms to Jordan |
| 99–145 | Department of Defense Authorization Act, 1986 |
| 99–93 | Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 |
| 99–93 | United States Information Agency Authorization Act, Fiscal Years 1986 and 1987 (title II) |
| 99–93 | Board for International Broadcasting Authorization Act, Fiscal Years 1986 and 1987 (title III) |
| 99–93 | Iran Claims Settlement (title V) |
| 99–93 | United States Scholarship Program for Developing Countries Authorization, Fiscal Years 1986 & 1987 (title VI) |
| 99–93 | Arms Control and Disarmament Act Authorization for Fiscal Years 1986 and 1987 (title VII) |
| 99–88 | Supplemental Appropriations Act, 1985 |
| 99–88 | Jordan Supplemental Economic Assistance Authorization Act of 1985 (title IV) |
| 99–85 | Authorization for an Improved U.S./Soviet Direct Communications Link |
| 99–83 | International Security and Development Cooperation Act of 1985 |
| 99–83 | International Narcotics Control Act of 1985 (title VI) |
| 99–83 | Peace Corps Authorization for Fiscal Years 1986 and 1987 (title XI) |
| 99–64 | Export Administration Amendments Act of 1985 |
| 99–47 | United States-Israel Free Trade Area Implementation Act of 1985 |
| 99–8 | African Famine Relief and Recovery Act of 1985 |
| 99–5 | Pacific Salmon Treaty Act of 1985 |
| 98–623 | Governing International Fishery Agreements With Iceland and the European Economic Community (title I) |
| 98–623 | Antarctic Marine Living Resources Convention Act of 1984 (title III) |
| 98–618 | Intelligence Authorization Act for Fiscal Year 1985 |
| 98–573 | Trade and Tariff Act of 1984 |
| 98–573 | International Trade and Investment Act (title III) |
| 98–573 | Generalized System of Preferences Renewal Act of 1984 (title V) |
| 98–573 | Steel Import Stabilization Act (title VIII) |

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| 98–573 | Wine Equity and Export Expansion Act of 1984 (title IX) |
| 98–562 | Cooperative East-West Ventures in Space |
| 98–533 | 1984 Act to Combat International Terrorism |
| 98–525 | Department of Defense Authorization Act, 1985 |
| 98–525 | United States Institute for Peace Act (title XVII) |
| 98–473 | Continuing Appropriations, 1985 |
| 98–473 | Inter-American Investment Corporation Act (title II, S. 2416, enacted by reference) |
| 98–473 | President's Emergency Food Assistance Act of 1984 (title III) |
| 98–447 | United States Government Opposition to the Practice of Torture |
| 98–445 | Eastern Pacific Tuna Licensing Act of 1984 |
| 98–373 | Arctic Research and Policy Act of 1984 (title I) |
| 98–373 | National Critical Materials Act of 1984 (title II) |
| 98–266 | Clement J. Zablocki Memorial Outpatient Facility, American Children's Hospital, Krakow, Poland |
| 98–258 | Agricultural Programs Adjustment Act of 1984 |
| 98–258 | Agricultural Exports (title V) |
| 98–198 | Child Health Revolution |
| 98–181 | Supplemental Appropriations Act, 1984 |
| 98–181 | Trade and Development Enhancement Act of 1983 (title VI, part C) |
| 98–181 | International Lending Supervision Act of 1983 (title IX) |
| 98–181 | Multilateral Development Banks: Sense of Congress (title X) |
| 98–164 | Department of State Authorization Act, Fiscal Years 1984 and 1985 (titles I, X) |
| 98–164 | United States Information Agency Authorization Act, Fiscal Years 1984 and 1985 (title II) |
| 98–164 | Board for International Broadcasting Authorization Act, Fiscal Years 1984 and 1985 (title III) |
| 98–164 | Asia Foundation Act (title IV) |
| 98–164 | National Endowment for Democracy Act (title V) |
| 98–164 | Foreign Missions Amendments Act (title VI) |
| 98–164 | International Environmental Protection Act of 1983 (title VII) |
| 98–164 | Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983 (title VIII) |
| 98–164 | United States-India Fund for Cultural, Educational, and Scientific Cooperation Act (title IX) |
| 98–151 | Continuing Resolution, 1984 |
| 98–151 | Foreign Assistance and Related Programs Appropriations Act, 1984 (sec. 101(b)(1)) |
| 98–151 | International Security and Development Assistance Authorization Act of 1983 (sec. 101(b)(2)) |
| 98–119 | Multinational Force in Lebanon Resolution |
| 98–111 | Radio Broadcasting to Cuba Act |
| 98–94 | Department of Defense Authorization Act, 1984 |
| 98–67 | Caribbean Basin Economic Recovery Act (title II) |
| 98–43 | Lebanon Emergency Assistance Act of 1983 |

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| 97–446 | Convention on Cultural Property Implementation Act (title III) |
| 97–425 | Nuclear Waste Policy Act of 1982 |
| 97–418 | Protection of Foreign Missions |
| 97–389 | Fisheries Amendments of 1982 |
| 97–389 | Atlantic Salmon Convention Act of 1982 (title III) |
| 97–389 | Governing International Fishery Agreements with Japan and Spain (title IV) |
| 97–325 | International Carriage of Perishable Foodstuffs Act |
| 97–290 | Export Trading Company Act of 1982 (title I) |
| 97–290 | Bank Export Services Act (title II) |
| 97–252 | Department of Defense Authorization Act, 1983 |
| 97–241 | Department of State Authorization Act, Fiscal Years 1982 and 1983 |
| 97–241 | Foreign Missions Act (title II) |
| 97–241 | United States Information Agency Authorization Act, Fiscal Years 1982 and 1983 (title III) |
| 97–241 | Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983 (title IV) |
| 97–229 | Energy Emergency Preparedness Act of 1982 |
| 97–145 | Export Administration Amendments Act of 1981 |
| 97–132 | Multinational Force and Observers Participation Resolution |
| 97–127 | Czechoslovakian Claims Settlement Act of 1981 |
| 97–113 | International Security and Development Cooperation Act of 1981 |
| 97–98 | Agriculture and Food Act of 1981 |
| 97–98 | Agriculture Trade and Export Policy Commission Act (title XII, subtitle C) |
| 97–35 | African Development Bank Act (title XIII, subtitle B, part 3) |
| 96–599 | International Coffee Agreement Act of 1980 |
| 96–561 | American Fisheries Promotion Act (title II) |
| 96–533 | International Security and Development Cooperation Act of 1980 |
| 96–533 | African Development Foundation Act (title V) |
| 96–494 | Agriculture Act of 1980 |
| 96–494 | Agricultural Trade Suspension Adjustment Act of 1980 (title II) |
| 96–494 | Bill Emerson Humanitarian Trust Act (title III) |
| 96–487 | Alaska National Interests Lands Conservation Act |
| 96–478 | Act to Prevent Pollution from Ships |
| 96–465 | Foreign Service Act of 1980 |
| 96–449 | Hostage Relief Act of 1980 |
| 96–422 | Refugee Education Assistance Act of 1980 |
| 96–389 | Bretton Woods Agreements Act Amendments, 1980 |
| 96–339 | Atlantic Tunas Convention Act of 1975, Appropriation Authorization |
| 96–323 | North Atlantic Treaty Organization Mutual Support Act of 1979 |
| 96–283 | Deep Seabed Hard Mineral Resources Act |
| 96–283 | Deep Seabed Hard Mineral Removal Tax Act of 1979 (title IV) |

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| 96–280 | Nuclear Non-Proliferation Act of 1978—Agreements for Cooperation |
| 96–271 | International Natural Rubber Agreement Appropriation Authorization for Fiscal Year 1981 |
| 96–259 | Providing for Increased Participation by the United States in the Inter-American and Asian Development Banks and African Development Fund |
| 96–236 | International Sugar Agreement, 1977, Implementation |
| 96–212 | Refugee Act of 1980 |
| 96–175 | Strategic and Critical Materials Transaction Authorization Act of 1979 |
| 96–133 | Energy Policy and Conservation Act Amendments |
| 96–92 | International Security Assistance Act of 1979 |
| 96–72 | Export Administration Act of 1979 |
| 96–70 | Panama Canal Act of 1979 |
| 96–60 | Department of State Authorization Act, Fiscal Years 1980 and 1981 (title I) |
| 96–60 | International Communication Agency Authorization Act, Fiscal Years 1980 and 1981 (title II) |
| 96–53 | International Development Cooperation Act of 1979 |
| 96–39 | Trade Agreements Act of 1979 |
| 96–35 | Special International Security Assistance Act of 1979 |
| 96–9 | Reaffirming North Atlantic Alliance—United States Commitment |
| 96–8 | Taiwan Relations Act |
| 95–630 | Financial Institutions Regulatory and Interest Rate Control Act of 1978 |
| 95–630 | Export-Import Bank Act Amendments of 1978 (title XIX) |
| 95–561 | Education Amendments of 1978 |
| 95–561 | National Academy of Peace and Conflict Resolution (title XV, part B) |
| 95–511 | Foreign Intelligence Surveillance Act of 1978 |
| 95–501 | Agricultural Trade Act of 1978 |
| 95–485 | Department of Defense Appropriation Authorization Act, 1979 |
| 95–452 | Inspector General Act of 1978 |
| 95–435 | Bretton Woods Agreements Act Amendments, 1978 |
| 95–426 | Foreign Relations Authorization Act, Fiscal Year 1979 |
| 95–426 | International Communication Agency Authorization for Fiscal Year 1979 (title II) |
| 95–424 | International Development and Food Assistance Act of 1978 |
| 95–393 | Diplomatic Relations Act |
| 95–384 | International Security Assistance Act of 1978 |
| 95–287 | Reaffirming the Unity of the North Atlantic Alliance Commitment |
| 95–242 | Nuclear Non-Proliferation Act of 1978 |
| 95–238 | Department of Energy Act of 1978 |
| 95–223 | International Emergency Economic Powers Act (title II) |
| 95–213 | Foreign Corrupt Practices Act of 1977 (title I) |
| 95–118 | International Financial Institutions Act |

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| 95–113 | Food and Agriculture Act of 1977 |
| 95–105 | Foreign Relations Authorization Act, Fiscal Year 1978 |
| 95–105 | United States Information Agency Authorization for Fiscal Year 1978 (title II) |
| 95–92 | International Security Assistance Act of 1977 |
| 95–88 | International Development and Food Assistance Act of 1977 |
| 95–6 | Fishery Conservation Zone Transition Act |
| 94–583 | Foreign Sovereign Immunities Act of 1976 |
| 94–472 | International Investment and Trade in Services Survey Act |
| 94–412 | National Emergencies Act |
| 94–350 | Foreign Relations Authorization Act, Fiscal Year 1977 |
| 94–350 | United States Information Agency Authorization for Fiscal Year 1977 (title II) |
| 94–350 | Foreign Service Retirement Amendments of 1976 (title V) |
| 94–329 | International Security Assistance and Arms Export Control Act of 1976 |
| 94–304 | Establishing a Commission on Security and Cooperation in Europe |
| 94–302 | African Development Fund Act (title II) |
| 94–265 | Magnuson-Stevens Fishery Conservation and Management Act of 1976 |
| 94–265 | Driftnet Act Amendments of 1990 (sec. 206) |
| 94–163 | Energy Policy and Conservation Act |
| 94–161 | International Development and Food Assistance Act of 1975 |
| 94–141 | Foreign Relations Authorization Act, Fiscal Year 1976 |
| 94–118 | Japan-United States Friendship Act |
| 94–110 | Joint Resolution to Implement the United States Proposal for the Early-Warning System in Sinai |
| 94–70 | Atlantic Tunas Convention Act of 1975 |
| 94–39 | National Aeronautics and Space Administration Authorization Act, 1976 |
| 93–627 | Deepwater Port Act of 1974 |
| 93–618 | Trade Act of 1974 |
| 93–618 | Narcotics Control Trade Act (title VIII) |
| 93–559 | Foreign Assistance Act of 1974 |
| 93–479 | Foreign Investment Study Act of 1974 |
| 93–475 | State Department/USIA Authorization Act, Fiscal Year 1975 |
| 93–366 | Antihijacking Act of 1974 |
| 93–365 | Department of Defense Appropriation Authorization Act, 1975 |
| 93–248 | Intervention on the High Seas Act |
| 93–205 | Endangered Species Act of 1973 |
| 93–199 | Emergency Security Assistance Act of 1973 |
| 93–189 | Foreign Assistance Act of 1973 |
| 93–188 | United Nations Environment Program Participation Act of 1973 |
| 93–153 | Trans-Alaska Pipeline Authorization Act |
| 93–148 | War Powers Resolution |
| 93–129 | Board for International Broadcasting Act of 1973 |

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| 93–126 | Department of State Appropriations Authorization Act of 1973 |
| 93–110 | Par Value Modification Act—Foreign Currency Reports (title II) |
| 92–544 | Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriations Act, 1973 |
| 92–522 | Marine Mammal Protection Act of 1972 |
| 92–499 | Act to Extend Diplomatic Privileges to the Commission of the European Communities |
| 92–403 | Case Act—Transmittal of International Agreements |
| 92–352 | Foreign Relations Authorization Act of 1972 |
| 92–268 | Par Value Modification Act |
| 92–257 | Trust Territory of the Pacific Islands Act |
| 92–226 | Foreign Assistance Act of 1971 |
| 92–39 | Micronesian Claims Act of 1971 |
| 91–672 | Foreign Military Sales Act Amendments, 1971 |
| 91–652 | Special Foreign Assistance Act of 1971 |
| 91–441 | Armed Forces Appropriation Authorization, 1971 |
| 91–269 | United States Recognition and Participation in International Expositions |
| 91–175 | Foreign Assistance Act of 1969, as amended |
| 90–629 | Arms Export Control Act |
| 90–554 | Foreign Assistance Act of 1968 |
| 90–553 | International Center Act |
| 90–390 | Export Loans—Assistance |
| 90–349 | Special Drawing Rights Act |
| 90–137 | Foreign Assistance Act of 1967 |
| 89–732 | Cuban Refugee Adjustment Act |
| 89–673 | Foreign Gifts and Decorations Act of 1966 |
| 89–583 | Foreign Assistance Act of 1966 |
| 89–532 | Convention on the Settlement of Investment Disputes Act of 1966 |
| 89–486 | Foreign Agents Registration Act Amendments |
| 89–369 | Asian Development Bank Act |
| 89–296 | Ryukyu Islands Claims Settlement Act |
| 89–259 | Cultural Objects—Importation for Temporary Display |
| 89–171 | Foreign Assistance Act of 1965 |
| 89–134 | Peace Corps Act Amendments |
| 88–633 | Foreign Assistance Act of 1964 |
| 88–408 | Tonkin Gulf Resolution |
| 88–205 | Foreign Assistance Act of 1963 |
| 87–826 | Collection and Publication of Foreign Commerce and Trade Statistics |
| 87–794 | Trade Expansion Act of 1962 |
| 87–733 | Cuban Resolution |
| 87–565 | Foreign Assistance Act of 1962 |
| 87–510 | Migration and Refugee Assistance Act of 1962 |
| 87–297 | Arms Control and Disarmament Act |
| 87–293 | Peace Corps Act |
| 87–256 | Mutual Educational and Cultural Exchange Act of 1961 |
| 87–195 | Foreign Assistance Act of 1961 |
| 87–195 | Tropical Forest Conservation Act of 1998 (part V) |

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| 87–125 | General Government Matters, Department of Commerce, and Related Agencies Appropriation Act, 1962 |
| 86–735 | Latin American Development Act |
| 86–628 | Legislative Branch Appropriation Act, 1961 |
| 86–565 | International Development Association Act |
| 86–472 | Mutual Security Act of 1960 |
| 86–472 | Center for Cultural and Technical Interchange Between East and West Act of 1960 (chapter VII) |
| 86–420 | Mexico-United States Interparliamentary Group |
| 86–147 | Inter-American Development Bank Act |
| 86–108 | Mutual Security Act of 1959 |
| 86–42 | Canada-United States Interparliamentary Group |
| 85–931 | Agricultural Trade Development and Assistance Act of 1954—Extension and Amendment |
| 85–846 | EURATOM Cooperation Act of 1958 |
| 85–568 | National Aeronautics and Space Act of 1958 |
| 85–474 | Departments of State and Justice, the Judiciary, and Related Agencies Appropriation Act, 1959 |
| 85–177 | International Atomic Energy Agency Participation Act of 1957 |
| 85–7 | Resolution To Promote Peace and Stability in the Middle East |
| 84–885 | State Department Basic Authorities Act of 1956 |
| 84–689 | United States Group of the North Atlantic Treaty Parliamentary Conferences—Participation Resolution |
| 84–350 | International Finance Corporation Act |
| 83–703 | Atomic Energy Act of 1954 |
| 83–680 | Fisherman's Protective Act of 1967 |
| 83–665 | Mutual Security Act of 1954 |
| 83–480 | Agricultural Trade Development and Assistance Act of 1954 |
| 83–451 | Civil Government for the Trust Territory of the Pacific Islands |
| 82–486 | Extending Certain Privileges to Representatives of Organization of American States |
| 82–414 | Immigration and Nationality Act |
| 81–764 | Tuna Conventions Act of 1950 |
| 81–676 | Whaling Convention Act of 1949 |
| 81–507 | National Science Foundation Act of 1950 |
| 81–455 | International Claims Settlement Act of 1949 |
| 81–439 | Agricultural Act of 1949 |
| 80–772 | Act of June 25, 1948 |
| 80–772 | Logan Act—Private Correspondence With Foreign Governments |
| 80–772 | Johnson Act—Financial Transactions With Foreign Governments |
| 80–402 | United States Information and Educational Exchange Act of 1948 |
| 80–357 | United Nations Headquarters Agreement Act |
| 80–253 | National Security Council |
| 79–547 | Act of July 25, 1946 |
| 79–291 | International Organizations Immunities Act |

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| 79–264 | United Nations Participation Act of 1945 |
| 79–173 | Export-Import Bank Act of 1945 |
| 79–171 | Bretton Woods Agreements Act |
| 76–54 | Neutrality Act of 1939 |
| 75–583 | Foreign Agents Registration Act of 1938 |
| 75–543 | Act of May 25, 1938 |
| 71–361 | Tariff Act of 1930 |
| 69–186 | Foreign Service Buildings Act, 1926 |
| 65–91 | Trading With the Enemy Act |

## Appendix II

NOTE.—Appendix II lists Public Laws included in *Legislation on Foreign Relations Through 2008*, either as free-standing law or in amendments, arranged alphabetically by short title or popular name with corresponding Public Law number.

| Short Title | Public Law No. |
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| 1984 Act to Combat International Terrorism | 98–533 |
| 1998 Supplemental Appropriations and Rescissions Act | 105–174 |
| 2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States | 107–206 |
| AGOA Acceleration Act of 2004 | 108–274 |
| Act For Reform In Emerging New Democracies and Support and Help for Improved Partnership with Russia, Ukraine, and Other New Independent States (FRIENDSHIP Act) | 103–199 |
| Act of May 25, 1938 | 75–543 |
| Act of July 25, 1946 | 79–547 |
| Act of June 25, 1948 | 80–772 |
| Act to Extend Diplomatic Privileges to the Commission of the European Communities | 92–499 |
| Act to Honor the Victims of the Bombing of Panam Flight | 103–158 |
| Act to Prevent Pollution from Ships | 96–478 |
| Adam Walsh Child Protection and Safety Act of 2006 | 109–248 |
| Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (H.R. 3427, enacted by reference) | 106–113 |
| Afghan Women and Children Relief Act of 2001 | 107–81 |
| Afghanistan Freedom Support Act of 2002 | 107–327 |
| Africa: Seeds of Hope Act of 1998 | 105–385 |
| African Conflict Resolution Act | 103–381 |
| African Development Bank Act (title XIII, subtitle B, part 3) | 97–35 |
| African Development Foundation Act (title V) | 96–533 |
| African Development Fund Act (title II) | 94–302 |

African Elephant Conservation Act (title II) ..... 100–478
African Elephant Conservation Reauthorization Act of 1998 ..... 105–217
African Elephant Conservation Reauthorization Act of 2001 ..... 107–111
African Famine Relief and Recovery Act of 1985 ..... 99–8
African Growth and Opportunity Act (title I) ..... 106–200
Agricultural Act of 1949 ..... 81–439
Agricultural Competitiveness and Trade Act of 1988 (title IV) ..... 100–418
Agricultural Development and Trade Act of 1990 (title XV) ..... 101–624
Agricultural Exports (title V) ..... 98–258
Agricultural Programs Adjustment Act of 1984 ..... 98–258
Agricultural Trade Act of 1978 ..... 95–501
Agricultural Trade Development and Assistance Act of 1954 ..... 83–480
Agricultural Trade Development and Assistance Act of 1954—Extension and Amendment ..... 85–931
Agricultural Trade Suspension Adjustment Act of 1980 (title II) ..... 96–494
Agriculture and Food Act of 1981 ..... 97–98
Agriculture Export Relief Act ..... 105–194
Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006 ..... 109–97
Agriculture Trade and Export Policy Commission Act (title XII, subtitle C) ..... 97–98
Aid, Trade, and Competitiveness Act of 1992 (title III) 102–549
Alaska National Interests Lands Conservation Act ..... 96–487
Amendments to U.S.–Mexico Agreement Establishing a Border Environment Cooperation Commission and North American Development Bank ..... 108–215
American Aid to Poland Act of 1988 (title II, subtitle B, part II) ..... 100–418
American Fisheries Promotion Act (title II) ..... 96–561
American Institute in Taiwan Facilities Enhancement Act ..... 106–212
American Servicemembers Protection Act (title II) ..... 107–206
Andean Trade Preference Act (title II) ..... 102–182
Andean Trade Promotion and Drug Eradication Act (title XXXI) ..... 107–210
Anglo-Irish Agreement Support Act of 1986 ..... 99–415
Antarctic Marine Living Resources Convention Act of 1984 (title III) ..... 98–623
Antarctic Protection Act of 1990 ..... 101–594
Antarctic Science, Tourism, and Conservation Act of 1996 ..... 104–227
Anti-Economic Discrimination Act of 1994 (title V, part C) ..... 103–236
Anti-Terrorism Act of 1987 (title X) ..... 100–204
Antiterrorism and Effective Death Penalty Act of 1996 104–132
Antihijacking Act of 1974 ..... 93–366

Approval of the Compact of Free Association With the Government of Palau ..... 99–658
Approving the Renewal of Import Restrictions—Burma ..... 108–272
Arctic Research and Policy Act of 1984 (title I) ..... 98–373
Arctic Tundra Habitat Emergency Conservation Act ... 106–108
Armed Forces Appropriation Authorization, 1971 ..... 91–441
Arms Control and Disarmament Act ..... 87–297
Arms Control and Disarmament Act Authorization for Fiscal Years 1986 and 1987 (title VII) ..... 99–93
Arms Control and Disarmament Amendments Act of 1987 ..... 100–213
Arms Control and Disarmament Amendments Act of 1989 ..... 101–216
Arms Control and Nonproliferation Act of 1994 (title VII, part A) ..... 103–236
Arms Control and Nonproliferation Act of 1999 (title XI, division B, H.R. 3427, enacted by reference) ..... 106–113
Arms Control, Nonproliferation, and Security Assistance Act of 1999 (division B, H.R. 3427, enacted by reference) ..... 106–113
Arms Export Control Act ..... 90–629
Asia Foundation Act (title IV) ..... 98–164
Asian Development Bank Act ..... 89–369
Asian Elephant Conservation Act of 1997 ..... 105–96
Asian Elephant Conservation Reauthorization Act of 2002 ..... 107–141
Asian/Pacific American Heritage Month—Designation 102–450
Assistance for International Malaria Control Act ..... 106–570
Assistance for Orphans and Other Vulnerable Children in Developing Countries Act of 2005 ..... 109–95
Atlantic Salmon Convention Act of 1982 (title III) ..... 97–389
Atlantic Tunas Convention Act of 1975 ..... 94–70
Atlantic Tunas Convention Act of 1975, Appropriation Authorization ..... 96–339
Atlantic Tunas Convention Act of 1995 (title III) ..... 104–43
Atlantic Tunas Convention Authorization Act of 1995 (title III) ..... 104–43
Atomic Energy Act of 1954 ..... 83–703
Au Pair Extension ..... 104–72
Authorization for an Improved U.S./Soviet Direct Communications Link ..... 99–85
Authorization for Use of Military Force [international terrorism] ..... 107–40
Authorization for Use of Military Force Against Iraq Resolution of 2002 ..... 107–243
Authorization for Use of U.S. Armed Forces Pursuant to U.N. Security Council Resolution 678 ..... 102–1
Aviation Security Improvement Act of 1990 ..... 101–604
Balanced Budget and Emergency Deficit Control Act of 1985 [Gramm-Rudman-Hollings Act] ..... 99–177
Ballistic Missile Defense Act of 1995 (title II, subtitle C) ..... 104–106
Bangladesh Disaster Assistance Act of 1988 ..... 100–576

Bank Export Services Act (title II) ..... 97–290
Belarus Democracy Act of 2004 ..... 108–347
Bill Emerson Humanitarian Trust Act (title III) ..... 96–494
Biological Weapons Anti-Terrorism Act of 1989 ..... 101–298
Board for International Broadcasting Act of 1973 ..... 93–129
Board for International Broadcasting Appropriations, 1988 (sec. 101(a), title V) ..... 100–202
Board for International Broadcasting Authorization Act, Fiscal Years 1982 and 1983 (title IV) ..... 97–241
Board for International Broadcasting Authorization Act, Fiscal Years 1984 and 1985 (title III) ..... 98–164
Board for International Broadcasting Authorization Act, Fiscal Years 1986 and 1987 (title III) ..... 99–93
Board for International Broadcasting Authorization Act, Fiscal Years 1988 and 1989 (title V) ..... 100–204
Bob Stump National Defense Authorization Act for Fiscal Year 2003 ..... 107–314
Bretton Woods Agreements Act ..... 79–171
Bretton Woods Agreements Act Amendments, 1978 .... 95–435
Bretton Woods Agreements Act Amendments, 1980 .... 96–389
Bring Them Home Alive Act of 2000 ..... 106–484
Cambodian Genocide Justice Act (title V, part D) ..... 103–236
Canada-United States Interparliamentary Group ..... 86–42
Cape Town Treaty Implementation Act of 2004 ..... 108–297
Caribbean Basin Economic Recovery Act (title II) ..... 98–67
Caribbean Basin Economic Recovery Expansion Act of 1990 (title II) ..... 101–382
Caribbean National Forest Wild and Scenic Rivers Act of 2002 ..... 107–365
Case Act—Transmittal of International Agreements ... 92–403
Center for Cultural and Technical Interchange Between East and West Act of 1960 (chapter VII) ..... 86–472
Central American Peace Assistance ..... 100–276
Central Bering Sea Fisheries Enforcement Act of 1992 (title III) ..... 102–582
Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III) ..... 102–182
Chemical Weapons Convention Implementation Act of 1998 (division I) ..... 105–277
Child Health Revolution ..... 98–198
Child Soldiers Prevention Act of 2008 (title IV) ..... 110–457
Chinese Student Protection Act of 1992 ..... 102–404
Civil Government for the Trust Territory of the Pacific Islands ..... 83–451
Class Action Fairness Act of 2005 ..... 109–2
Clean Air Act Amendments ..... 101–549
Clean Diamond Trade Act ..... 108–19
Clean Water for the Americas Partnership Act of 2002 (division A, title VI, subtitle D) ..... 107–228
Clement J. Zablocki Memorial Outpatient Facility, American Children's Hospital, Krakow, Poland ..... 98–266
Coast Guard Authorization Act of 1993 ..... 103–206
Collection and Publication of Foreign Commerce and Trade Statistics ..... 87–826

Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII) ..... 104–293
Commercial Space Act of 1998 ..... 105–303
Compact of Free Association Act of 1985 ..... 99–239
Competitiveness Policy Council Act (title V, part I, subtitle C) ..... 100–418
Comprehensive Peace in Sudan Act of 2004 ..... 108–497
Congo Basin Forest Partnership Act of 2004 ..... 108–200
Consolidated Appropriations Act, 2005 ..... 108–447
Continuing Appropriations, Fiscal Year 2006 ..... 109–77
Continuing Resolution, 1984 ..... 98–151
Convention on Cultural Property Implementation Act (title III) ..... 97–446
Convention on the Settlement of Investment Disputes Act of 1966 ..... 89–532
Conventional Forces in Europe Treaty Implementation Act of 1991 ..... 102–228
Cooperative East-West Ventures in Space ..... 98–562
Cooperative Threat Reduction Act of 1993 (title XII) ... 103–160
Crime Control Act of 1990 ..... 101–647
Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 ..... 104–114
Cuban Political Prisoners and Immigrants (sec. 101(a), title VII) ..... 100–202
Cuban Refugee Adjustment Act ..... 89–732
Cuban Resolution ..... 87–733
Cuban Democracy Act of 1992 (title XVII) ..... 102–484
Cultural Objects—Importation for Temporary Display 89–259
Customs and Trade Act of 1990 ..... 101–382
Czechoslovakian Claims Settlement Act of 1981 ..... 97–127
Dante B. Fascell North-South Center Act of 1991 (sec. 208) ..... 102–138
David L. Boren National Security Education Act of 1991 ..... 102–183
Deep Seabed Hard Mineral Removal Tax Act of 1979 (title IV) ..... 96–283
Deep Seabed Hard Mineral Resources Act ..... 96–283
Deepwater Port Act of 1974 ..... 93–627
Defense Against Weapons of Mass Destruction Act of 1996 (title XIV) ..... 104–201
Defense Against Weapons of Mass Destruction Act of 1998 (title XIV) ..... 105–261
Defense Conversion, Reinvestment, and Transition Assistance Amendments of 1993 (title XIII) ..... 103–160
Defense Offsets Disclosure Act of 1999 (subtitle D, title XII, H.R. 3427, enacted by reference) ..... 106–113
Demilitarization of the Former Soviet Union Act of 1992 (title XIV) ..... 102–484
Democratic Republic of the Congo Relief, Security, and Democracy Promotion Act of 2006 ..... 109–456
Department of Defense and Emergency Supplemental Appropriations for Recovery From and Response To Terrorist Attacks on the United States Act, 2002 ..... 107–117
Department of Defense Appropriation Act, 1976 ..... 94–212

Department of Defense Appropriation Authorization Act, 1975 ..... 93–365
Department of Defense Appropriation Authorization Act, 1979 ..... 95–485
Department of Defense Appropriations Act, 2009 ..... 110–329
Department of Defense Authorization Act, 1983 ..... 97–252
Department of Defense Authorization Act, 1984 ..... 98–94
Department of Defense Authorization Act, 1985 ..... 98–525
Department of Defense Authorization Act, 1986 ..... 99–145
Department of Defense Authorization Act, 1987 (Division A) ..... 99–661
Department of Defense, Emergency Supplemental Appropriations To Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 ..... 109–148
Department of Energy Act of 1978 ..... 95–238
Department of State and Related Agencies Appropriations Act, 2006 (title IV) ..... 109–108
Department of State Appropriations Authorization Act of 1973 ..... 93–126
Department of State Authorities Act, 2006 ..... 109–472
Department of State Authorization Act, Fiscal Year 2003 (division A) ..... 107–228
Department of State Authorization Act, Fiscal Years 1980 and 1981 (title I) ..... 96–60
Department of State Authorization Act, Fiscal Years 1982 and 1983 ..... 97–241
Department of State Authorization Act, Fiscal Years 1984 and 1985 (titles I, X) ..... 98–164
Department of State, Foreign Operations, and Related Programs Appropriations Act, 2009 (division H) ..... 111–8
Department of State Special Agents Retirement Act of 1998 ..... 105–382
Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 ..... 109–54
Departments of State and Justice, the Judiciary, and Related Agencies Appropriation Act, 1959 ..... 85–474
Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriations Act, 1973 ..... 92–544
Detainee Treatment Act of 2005 (title XIV) ..... 109–163
Diplomatic Relations Act ..... 95–393
Diplomatic Security Act (titles I–IV) ..... 99–399
Dire Emergency Supplemental Appropriations Act, 1988 ..... 100–393
Distribution of USIA Materials ..... 102–454
Dolphin Protection Consumer Information Act (title IX) ..... 101–627
Dominican Republic-Central America-United States Free Trade Agreement Implementation Act ..... 109–53
Driftnet Act Amendments of 1990 (sec. 206) ..... 94–265
Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (title IV) ..... 100–220
Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 ..... 110–417

East Timor Transition to Independence Act of 2002 (division A, title VI, subtitle C) ..... 107–228
Eastern Pacific Tuna Licensing Act of 1984 ..... 98–445
Education Amendments of 1978 ..... 95–561
Eisenhower Exchange Fellowship Act of 1990 ..... 101–454
Emergency Security Assistance Act of 1973 ..... 93–199
Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 ..... 108–106
Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 ..... 109–13
Emergency Supplemental Appropriations Act To Address Hurricanes in the Gulf of Mexico and Pandemic Influenza Act, 2006 (division B) ..... 109–148
Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995 ..... 104–6
Emergency Supplemental Assistance for Israel Act of 1991 ..... 102–21
Emergency Supplemental Persian Gulf Refugee Assistance Act of 1991 ..... 102–45
Endangered Species Act of 1973 ..... 93–205
Energy Emergency Preparedness Act of 1982 ..... 97–229
Energy Independence and Security Act of 2007 ..... 110–140
Energy Policy Act of 1992 ..... 102–486
Energy Policy Act of 2005 ..... 109–58
Energy Policy and Conservation Act ..... 94–163
Energy Policy and Conservation Act Amendments ..... 96–133
Enhanced Border Security and Visa Entry Reform Act of 2002 ..... 107–173
Enterprise for the Americas Act of 1992 (title VI) ..... 102–549
Enterprise for the Americas Initiative Act of 1992 ..... 102–532
Establishing a Commission on Security and Cooperation in Europe ..... 94–304
EURATOM Cooperation Act of 1958 ..... 85–846
European Bank for Reconstruction and Development Act (sec. 562(c)) ..... 101–513
European Security Act of 1998 (division G, title XXVII) ..... 105–277
Exchange Rates and International Economic Policy Coordination Act of 1988 (title III, subtitle A) ..... 100–418
Export Administration Act of 1979 ..... 96–72
Export Administration Amendments Act of 1981 ..... 97–145
Export Administration Amendments Act of 1985 ..... 99–64
Export Enhancement Act of 1988 (title II) ..... 100–418
Export Enhancement Act of 1992 ..... 102–429
Export Enhancement Act of 1999 ..... 106–158
Export Enhancement Program Amendments of 1994 (title IV, subtitle A, part II, sec. 411(a)) ..... 103–465
Export-Import Bank Act Amendments of 1978 (title XIX) ..... 95–630
Export-Import Bank Act Amendments of 1986 ..... 99–472
Export-Import Bank Act of 1945 ..... 79–173

Export-Import Bank and Tied Aid Credit Amendments of 1988 (title III, subtitle D) ..... 100–418
Export-Import Bank Reauthorization Act of 2002 ..... 107–189
Export Loans—Assistance ..... 90–390
Export Trading Company Act of 1982 (title I) ..... 97–290
Extending Certain Privileges to Representatives of Organization of American States ..... 82–486
Extradition Treaties Implementation Act of 1998 ..... 105–323
Fair Trade in Auto Parts Act of 1988 (title II, subtitle A, part II) ..... 100–418
Famine Prevention and Freedom From Hunger Improvement Act of 2000 ..... 106–373
Fascell Fellowship Act (title X) ..... 99–399
Fascell Fellowship Amendments Act of 1990 (sec. 9) ... 101–454
Federal Agriculture Improvement and Reform Act of 1996 ..... 104–127
Federal Aviation Reauthorization Act of 1996 ..... 104–264
Federal Reports Elimination Act of 1998 ..... 105–362
Federal Reports Elimination and Sunset Act of 1995 .. 104–66
Federal Triangle Development Act ..... 100–113
Financial Institutions Regulatory and Interest Rate Control Act of 1978 ..... 95–630
Financial Reports Act of 1988 (title III, subtitle G) ..... 100–418
Finding the Government of Iraq in Unacceptable and Material Breach of Its International Obligations ..... 105–235
Fisheries Act of 1995 ..... 104–43
Fisheries Amendments of 1982 ..... 97–389
Fisherman's Protective Act of 1967 ..... 83–680
Fishery Conservation Amendments of 1990 ..... 101–627
Fishery Conservation Zone Transition Act ..... 95–6
Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 ..... 106–398
Food, Agriculture, Conservation, and Trade Act of 1990 ..... 101–624
Food, Agriculture, Conservation, and Trade Act Amendments of 1991 ..... 102–237
Food and Agriculture Act of 1977 ..... 95–113
Food for Progress Act of 1985 (sec. 1110) ..... 99–198
Food Security Act of 1985 ..... 99–198
Foreign Affairs Agencies Consolidation Act of 1998 (division G, subdivision A) ..... 105–277
Foreign Affairs Reform and Restructuring Act of 1998 (division G) ..... 105–277
Foreign Agents Registration Act Amendments ..... 89–486
Foreign Agents Registration Act of 1938 ..... 75–583
Foreign Assistance Act of 1961 ..... 87–195
Foreign Assistance Act of 1962 ..... 87–565
Foreign Assistance Act of 1963 ..... 88–205
Foreign Assistance Act of 1964 ..... 88–633
Foreign Assistance Act of 1965 ..... 89–171
Foreign Assistance Act of 1966 ..... 89–583
Foreign Assistance Act of 1967 ..... 90–137
Foreign Assistance Act of 1968 ..... 90–554
Foreign Assistance Act of 1969, as amended ..... 91–175

Foreign Assistance Act of 1971 ..... 92–226
Foreign Assistance Act of 1973 ..... 93–189
Foreign Assistance Act of 1974 ..... 93–559
Foreign Assistance and Related Programs Appropriations Act, 1984 (sec. 101(b)(1)) ..... 98–151
Foreign Corrupt Practices Act Amendments of 1988 (title V, subtitle A, part I) ..... 100–418
Foreign Corrupt Practices Act of 1977 (title I) ..... 95–213
Foreign Debt Reserving Act of 1989 (title IV) ..... 101–240
Foreign Direct Investment and International Financial Date Improvements Act of 1990 ..... 101–533
Foreign Gifts and Decorations Act of 1966 ..... 89–673
Foreign Intelligence Surveillance Act of 1978 ..... 95–511
Foreign Investment Study Act of 1974 ..... 93–479
Foreign Military Sales Act Amendments, 1971 ..... 91–672
Foreign Missions Act (title II) ..... 97–241
Foreign Missions Amendments Act (title VI) ..... 98–164
Foreign Narcotics Kingpin Designation Act (title VIII) 106–120
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (sec. 101(e)) ..... 100–202
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 ..... 100–460
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 ..... 101–167
Foreign Operations, Export Financing, and Related Programs Appropriations Act 1991 ..... 101–513
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993 ..... 102–391
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1995 ..... 103–306
Foreign Operations, Export Financing, and Related Programs Supplemental Appropriations Act, 1997 (title I, sec. 101(c)) ..... 104–208
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (H.R. 3422, enacted by reference) ..... 106–113
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 ..... 106–429
[Kenneth M. Ludden] Foreign Operations, Export Financing and Related Programs Appropriations Act, 2002 ..... 107–115
Foreign Operations, Export Financing and Related Programs Appropriations Act, 2003 (division E) ..... 108–7
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (division D) ..... 108–199
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (division D) ..... 108–447
Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 ..... 109–102
Foreign Relations Authorization Act, Fiscal Year 1976 94–141
Foreign Relations Authorization Act, Fiscal Year 1977 94–350
Foreign Relations Authorization Act, Fiscal Year 1978 95–105
Foreign Relations Authorization Act, Fiscal Year 1979 95–426
Foreign Relations Authorization Act, Fiscal Year 2003 107–228

Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 ..... 99–93
Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 ..... 100–204
Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 ..... 101–246
Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 ..... 102–138
Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 ..... 103–236
Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (division G, subdivision B) ..... 105–277
Foreign Relations Authorization Act of 1972 ..... 92–352
Foreign Relations Persian Gulf Conflict Emergency Supplemental Authorization Act, Fiscal Year 1991 .. 102–20
Foreign Service Act of 1980 ..... 96–465
Foreign Service Buildings Act, 1926 ..... 69–186
Foreign Service Retirement Amendments of 1976 (title V) ..... 94–350
Foreign Shipping Practices Act of 1988 (title X) ..... 100–418
Foreign Sovereign Immunities Act of 1976 ..... 94–583
Forest Resources Conservation and Shortage Relief Act of 1990 (title IV) ..... 101–382
Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (FREEDOM Support Act) ..... 102–511
Freedom Investment Act of 2002 (division A, title VI, subtitle E) ..... 107–228
FRIENDSHIP Act ..... 103–199
Further Continuing Appropriations, 1985 ..... 99–190
General Government Matters, Department of Commerce, and Related Agencies Appropriation Act, 1962 ..... 87–125
Generalized System of Preferences Renewal Act of 1984 (title V) ..... 98–573
Gerald B.H. Solomon Freedom Consolidation Act of 2002 ..... 107–187
German-American Day ..... 103–100
German Democratic Republic Fishery Agreement ..... 100–350
Global AIDS and Tuberculosis Relief Act of 2000 ..... 106–264
Global AIDS Research and Relief Act of 2000 (title I) .. 106–264
Global Anti-Semitism Review Act of 2004 ..... 108–332
Global Change Research Act of 1990 ..... 101–606
Global Climate Change Prevention Act of 1990 (title XXIV) ..... 101–624
Global Climate Protection Act of 1987 (title XI) ..... 100–204
Global Environmental Protection Assistance Act of 1989 (title VII) ..... 101–240
Governing International Fishery Agreement With Poland ..... 105–384
Governing International Fishery Agreements With Iceland and the European Economic Community (title I) ..... 98–623

Governing International Fishery Agreements With Japan and Spain (title IV) ..... 97–389
Great Ape Conservation Act of 2000 ..... 106–411
Haitian Refugee Immigration Fairness Act of 1998 (division A, sec. 101(h), title IX) ..... 105–277
HELP Commission Act (division B, sec. 637) ..... 108–199
Helsinki Human Rights Day ..... 103–294
High Seas Driftnet Fisheries Enforcement Act ..... 102–582
High Seas Driftnet Fishing Moratorium Protection Act (title VI) ..... 104–43
High Seas Fishing Compliance Act of 1995 (title I) ..... 104–43
Higher Education Amendments of 1986 ..... 99–498
Holocaust Victims Redress Act ..... 105–158
Horn of Africa Recovery and Food Security Act ..... 102–274
Hostage Relief Act of 1980 ..... 96–449
Human Rights, Refugees, and Other Foreign Relations Provisions Act of 1996 ..... 104–319
Humpback Whales Wildlife Sanctuary (West Indies) ... 99–630
ILSA [Iran and Libya Sanctions Act] Extension Act of 2001 ..... 107–24
Immigration Act of 1990 ..... 101–649
Immigration and Nationality Act ..... 82–414
Immigration Reform and Control Act of 1986 ..... 99–603
Implementation of Compact of Free Association With Palau ..... 101–219
Implementing Agreement for Vienna Convention on Diplomatic Relations ..... 101–62
Implementing Recommendations of the 9/11 Commission Concerning Nonproliferation and Terrorism ..... 110–53
Indochinese Refugee and Resettlement Act of 1987 (sec. 101(a), title VIII) ..... 100–202
Inspector General Act of 1978 ..... 95–452
Intelligence Authorization Act for Fiscal Year 1985 ..... 98–618
Intelligence Authorization Act for Fiscal Year 1996 ..... 104–93
Intelligence Authorization Act for Fiscal Year 1997 ..... 104–293
Intelligence Authorization Act for Fiscal Year 1998 ..... 105–107
Intelligence Authorization Act for Fiscal Year 2000 ..... 106–120
Intelligence Reform and Terrorism Prevention Act of 2004 ..... 108–458
Inter-American Development Bank Act ..... 86–147
Inter-American Investment Corporation Act (title II, S. 2416, enacted by reference) ..... 98–473
Intercountry Adoption Act of 2000 ..... 106–279
International Academic Opportunities Act of 2000 (title III) ..... 106–309
International Anti-Bribery and Fair Competition Act of 1998 ..... 105–366
International Anti-Corrpution and Good Governance Act of 2000 (title II) ..... 106–309
International Arms Sales Code of Conduct Act of 1999 (subtitle F, title XII, H.R. 3427, enacted by reference) ..... 106–113
International Atomic Energy Agency Participation Act of 1957 ..... 85–177

International Carriage of Perishable Foodstuffs Act .... 97–325
International Center Act ..... 90–553
International Child Abduction Remedies Act ..... 100–300
International Claims Settlement Act of 1949 ..... 81–455
International Coffee Agreement Act of 1980 ..... 96–599
International Communication Agency Authorization for Fiscal Year 1979 (title II) ..... 95–426
International Communication Agency Authorization Act, Fiscal Years 1980 and 1981 (title II) ..... 96–60
International Cooperation in Global Change Research Act of 1990 (title II) ..... 101–606
International Cooperation to Protect Biological Diversity ..... 100–530
International Debt Management Act of 1988 (title III, subtitle B) ..... 100–418
International Development and Finance Act of 1989 ... 101–240
International Development and Food Assistance Act of 1975 ..... 94–161
International Development and Food Assistance Act of 1977 ..... 95–88
International Development and Food Assistance Act of 1978 ..... 95–424
International Development Association Act ..... 86–565
International Development Cooperation Act of 1979 .... 96–53
International Dolphin Conservation Act of 1992 ..... 102–523
International Dolphin Conservation Program Act ..... 105–42
International Emergency Economic Powers Act (title II) ..... 95–223
International Energy Emergency Authorities: Extension ..... 100–373
International Environmental Protection Act of 1983 (title VII) ..... 98–164
International Finance Corporation Act ..... 84–350
International Financial Institutions Act ..... 95–118
International Forestry Cooperation Act of 1990 (title VI) ..... 101–513
International Investment and Trade in Services Survey Act ..... 94–472
International Lending Supervision Act of 1983 (title IX) ..... 98–181
International Malaria Control Act (title I) ..... 106–570
International Maritime and Port Security Act (title IX) ..... 99–399
International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 (title III) ..... 107–56
International Narcotics Control Act of 1985 (title VI) .. 99–83
International Narcotics Control Act of 1986 (title II) ... 99–570
International Narcotics Control Act of 1988 (title IV) .. 100–690
International Narcotics Control Act of 1989 ..... 101–231
International Narcotics Control Act of 1990 ..... 101–623
International Narcotics Control Corrections Act of 1994 ..... 103–447
International Natural Rubber Agreement Appropriation Authorization for Fiscal Year 1981 ..... 96–271

International Organizations Immunities Act ..... 79–291
International Parental Kidnapping Crime Act ..... 105–173
International Peacekeeping Act of 1992 ..... 102–311
International Religious Freedom Act of 1998 ..... 105–292
International Security and Development Assistance Authorization Act of 1983 (sec. 101(b)(2)) ..... 98–151
International Security and Development Cooperation Act of 1980 ..... 96–533
International Security and Development Cooperation Act of 1981 ..... 97–113
International Security and Development Cooperation Act of 1985 ..... 99–83
International Security Assistance Act of 1977 ..... 95–92
International Security Assistance Act of 1978 ..... 95–384
International Security Assistance Act of 1979 ..... 96–92
International Security Assistance and Arms Export Control Act of 1976 ..... 94–329
International Sugar Agreement, 1977, Implementation 96–236
International Trade and Investment Act (title III) ..... 98–573
International Tuberculosis Control Act of 2000 (title II) ..... 106–264
Intervention on the High Seas Act ..... 93–248
Iran and Libya Sanctions Act of 1996 ..... 104–172
Iran Claims Settlement (title V) ..... 99–93
Iran-Iraq Arms Non-Proliferation Act of 1992 (title XVI) ..... 102–484
Iran Nonproliferation Act of 2000 ..... 106–178
Iran Nonproliferation Amendments Act of 2005 ..... 109–112
Iran Nuclear Proliferation Prevention Act of 2002 (division B, title XIII, subtitle D) ..... 107–228
Iraq Liberation Act of 1998 ..... 105–338
Iraq Sanctions Act of 1990 (secs. 586–586J) ..... 101–513
Irish Peace Process Cultural and Training Program Act of 1998 ..... 105–319
Japan-United States Friendship Act ..... 94–118
Japanese Imperial Government Disclosure Act of 2000 (title VIII) ..... 106–567
Jerusalem Embassy Act of 1995 ..... 104–45
Jobs Through Exports Act of 1992 ..... 102–549
Jobs Through Trade Expansion Act of 1994 ..... 103–392
John Warner National Defense Authorization Act for Fiscal Year 2007 ..... 109–364
Johnson Act—Financial Transactions With Foreign Governments ..... 80–772
Joint Resolution to Implement the United States Proposal for the Early-Warning System in Sinai ..... 94–110
Jordan Supplemental Economic Assistance Authorization Act of 1985 (title IV) ..... 99–88
Kenneth M. Ludden Foreign Operations, Export Financing and Related Programs Appropriations Act, 2002 ..... 107–115
Latin American Development Act ..... 86–735
Lebanon Emergency Assistance Act of 1983 ..... 98–43
Legislative Branch Appropriation Act, 1961 ..... 86–628

Logan Act—Private Correspondence With Foreign Governments ..... 80–772
Magnuson-Stevens Fishery Conservation and Management Act of 1976 ..... 94–265
Marine Mammal Protection Act of 1972 ..... 92–522
Marine Turtle Conservation Act of 2004 ..... 108–266
Mexican Debt Disclosure Act of 1995 (title IV) ..... 104–6
Mexico-United States Interparliamentary Group ..... 86–420
Microenterprise for Self-Reliance Act of 2000 (title I) .. 106–309
Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000 ..... 106–309
Microenterprise Report to Congress ..... 108–31
Microenterprise Results and Accountability Act of 2004 ..... 108–484
Micronesian Claims Act of 1971 ..... 92–39
Middle East Peace Facilitation Act of 1993 ..... 103–125
Middle East Peace Facilitation Act of 1994 (title V, part E) ..... 103–236
Middle East Peace Commitments Act of 2002 (division A, title VI, subtitle A) ..... 107–228
Migration and Refugee Assistance Act of 1962 ..... 87–510
Migratory Bird Treaty Reform Act of 2004 (division E, sec. 143) ..... 108–447
Mike Mansfield Fellowship Act (title II, part C) ..... 103–236
Military Commissions Act of 2006 ..... 109–366
Millennium Challenge Act of 2003 (division D, title VI) ..... 108–199
Miscellaneous Amendments and Authorization—FYs 1996 and 1997 ..... 104–164
Miscellaneous Appropriations and Offsets Act, 2005 (division J, title I) ..... 108–447
Miscellaneous International Affairs Authorization Act of 1988 (S. 2757, enacted by reference) ..... 100–461
Miscellaneous Trade and Technical Corrections Act of 1999 ..... 106–36
Miscellaneous Trade and Technical Corrections Act of 2004 ..... 108–429
Missile Defense Act of 1991 (title II, part C) ..... 102–190
Most-Favored-Nation Treatment for Cambodia ..... 104–203
Most-Favored-Nation Treatment for People's Republic of Bulgaria ..... 102–158
Most-Favored-Nation Treatment for People's Republic of Bulgaria ..... 104–162
Most-Favored-Nation Treatment for Czechoslovakia .... 101–541
Most-Favored Nation Treatment for Mongolian People's Republic ..... 102–157
Most-Favored-Nation Treatment for Romania ..... 104–171
Most-Favored Nation Treatment for the Union of Soviet Socialist Republics ..... 102–197
Multilateral Development Bank Act of 1985 (sec. 101(i), H.R. 2253, enacted by reference) ..... 99–190
Multilateral Development Banks Procurement Act (title III, subtitle C) ..... 100–418

Multilateral Development Banks: Sense of Congress (title X) ..... 98–181
Multilateral Export Control Enhancement Amendments Act (title II, subtitle D, part II) ..... 100–418
Multilateral Investment Guarantee Agency Act (sec. 101(e), H.R. 3570, enacted by reference, title IV) ..... 100–202
Multinational Force and Observers Participation Resolution ..... 97–132
Multinational Force in Lebanon Resolution ..... 98–119
Mutual Educational and Cultural Exchange Act of 1961 ..... 87–256
Mutual Security Act of 1954 ..... 83–665
Mutual Security Act of 1959 ..... 86–108
Mutual Security Act of 1960 ..... 86–472
National Academy of Peace and Conflict Resolution (title XV, part B) ..... 95–561
National Aeronautics and Space Act of 1958 ..... 85–568
National Aeronautics and Space Administration Authorization Act, 1976 ..... 94–39
National Aeronautics and Space Administration Authorization Act of 1988 ..... 100–147
National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 ..... 100–685
National Aeronautics and Space Administration Authorization Act, Fiscal Year 1991 ..... 101–611
National Aeronautics and Space Administration Authorization Act, Fiscal Year 1992 ..... 102–195
National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993 ..... 102–588
National and Community Service Act of 1990 ..... 101–610
National Critical Materials Act of 1984 (title II) ..... 98–373
National Defense Authorization Act, Fiscal Year 1987 99–661
National Defense Authorization Act, Fiscal Year 1989 100–456
National Defense Authorization Act for Fiscal Years 1988 and 1989 ..... 100–180
National Defense Authorization Act for Fiscal Years 1990 and 1991 ..... 101–189
National Defense Authorization Act for Fiscal Year 1991 ..... 101–510
National Defense Authorization Act for Fiscal Years 1992 and 1993 ..... 102–190
National Defense Authorization Act for Fiscal Year 1993 ..... 102–484
National Defense Authorization Act for Fiscal Year 1994 ..... 103–160
National Defense Authorization Act for Fiscal Year 1995 ..... 103–337
National Defense Authorization Act for Fiscal Year 1996 ..... 104–106
National Defense Authorization Act for Fiscal Year 1997 ..... 104–201
National Defense Authorization Act for Fiscal Year 1998 ..... 105–85

National Defense Authorization Act for Fiscal Year 1999 ..... 105–262
National Defense Authorization Act for Fiscal Year 2000 ..... 106–65
[Floyd D. Spence] National Defense Authorization Act for Fiscal Year 2001 ..... 106–398
National Defense Authorization Act for Fiscal Year 2002 ..... 107–107
[Bob Stump] National Defense Authorization Act for Fiscal Year 2003 ..... 107–314
National Defense Authorization Act for Fiscal Year 2004 ..... 108–136
[Ronald W. Reagan] National Defense Authorization Act for Fiscal Year 2005 ..... 108–375
National Defense Authorization Act for Fiscal Year 2006 ..... 109–163
[John Warner] National Defense Authorization Act for Fiscal Year 2007 ..... 109–364
National Defense Authorization Act for Fiscal Year 2008 ..... 110–181
[Duncan Hunter] National Defense Authorization Act for Fiscal Year 2009 ..... 110–417
National Emergencies Act ..... 94–412
National Endowment for Democracy Act (title V) ..... 98–164
National Former Prisoners of War Recognition Day .... 103–60
National Missile Defense Act of 1999 ..... 106–38
National Science Foundation Act of 1950 ..... 81–507
National Security and Corporate Fairness under the Biological Weapons Convention Act (chapter 2, subtitle A, title XI, division B, H.R. 3427, enacted by reference) ..... 106–113
National Security Council ..... 80–253
National Shipbuilding and Shipyard Conversion Act of 1993 (title XIII, subtitle D) ..... 103–160
National Space Council Authorization Act of 1990 ..... 101–328
National Terrorist Asset Trading Center ..... 106–346
NATO Freedom Consolidation Act of 2007 ..... 110–17
NATO Participation Act of 1994 (title II) ..... 103–447
Naval Vessel Transfer Act of 2008 ..... 110–429
Naval Vessels Transfer Act of 2005 ..... 109–134
Nazi War Crimes Disclosure Act ..... 105–246
Neotropical Migratory Bird Conservation Act ..... 106–247
Neutrality Act of 1939 ..... 76–54
Nicaraguan Adjustment and Central American Relief Act (title II) ..... 105–100
Nondiscriminatory Treatment Toward Products of Albania ..... 102–363
Nondiscriminatory Treatment Toward Products of Romania ..... 103–133
Nonproliferation Assistance Coordinationa Act of 2002 107–228
Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 ..... 101–646
North American Free Trade Agreement Implementation Act ..... 103–182

North Atlantic Treaty Organization Mutual Support Act of 1979 ..... 96–323
North Korea Nonproliferation Act of 2006 ..... 109–353
North Korea Threat Reduction Act of 1999 (subtitle B, title VIII, division A, H.R. 3427, enacted by reference) ..... 106–113
North Korean Human Rights Act of 2004 ..... 108–333
North Pacific Anadromous Stocks Act of 1992 (title VIII) ..... 102–567
North Pacific Anadromous Stocks Convention Act of 1992 (title VIII) ..... 102–587
Northern Uganda Crisis Response Act ..... 108–283
Northwest Atlantic Fisheries Convention Act of 1995 (title II) ..... 104–43
Nuclear Non-Proliferation Act of 1978 ..... 95–242
Nuclear Non-Proliferation Act of 1978—Agreements for Cooperation ..... 96–280
Nuclear Proliferation Prevention Act of 1994 (title VIII) ..... 103–236
Nuclear Security Initiative Act of 2003 (title XXXVI) .. 108–136
Nuclear Waste Policy Act of 1982 ..... 97–425
Oceans Act of 1992 ..... 102–587
Oceans Act of 2000 ..... 106–256
Office of National Drug Control Policy Reauthorization Act of 1998 (division C, title VII) ..... 105–277
Oil Pollution Act of 1990 ..... 101–380
Omnibus Appropriations Act, 2009 ..... 111–8
Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999 ..... 105–277
Omnibus Consolidated Appropriations for Fiscal Year 1997 ..... 104–208
Omnibus Diplomatic Security and Antiterrorism Act of 1986 ..... 99–399
Omnibus Insular Areas Act of 1992 ..... 102–247
Omnibus Trade and Competitiveness Act of 1988 ..... 100–418
Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991 ..... 102–28
Overseas Private Investment Corporation Amendments Act of 1988 (H.R. 5263, enacted by reference) 100–461
Pacific Charter Commission Act of 2000 (title IV) ..... 106–570
Pacific Salmon Treaty Act of 1985 ..... 99–5
Passport Services Enhancement Act of 2005 ..... 109–167
Paul D. Coverdell Fellows Program Act of 2000 (sec. 408) ..... 106–309
Paul D. Coverdell World Wise Schools Act of 2000 (title VI) ..... 106–570
Panama Canal Act of 1979 ..... 96–70
Panama Canal Act Amendments of 1996 ..... 104–201
Panama Canal Commission Authorization Act for Fiscal Year 1990 (title XXXV) ..... 101–189
Panama Canal Commission Authorization Act for Fiscal Year 1991 (title XXXV) ..... 101–510
Panama Canal Commission Authorization Act for Fiscal Year 1992 (title XXXV) ..... 102–190

Panama Canal Commission Authorization Act for Fiscal Year 1993 (title XXXV) ..... 102–484
Panama Canal Commission Authorization Act for Fiscal Year 1994 (title XXXV) ..... 103–160
Panama Canal Commission Authorization Act for Fiscal Year 1995 (title XXXVI) ..... 103–337
Panama Canal Commission Authorization Act for Fiscal Year 1996 (title XXXV) ..... 104–106
Panama Canal Commission Authorization Act for Fiscal Year 1997 (title XXXV) ..... 104–201
Panama Canal Commission Authorization Act for Fiscal Year 1998 (title XXXV) ..... 105–85
Panama Canal Commission Authorization Act for Fiscal Year 1999 (title XXXV) ..... 105–261
Panama Canal Commission Authorization Act for Fiscal Year 2000 (title XXXV) ..... 106–65
Par Value Modification Act ..... 92–268
Par Value Modification Act—Foreign Currency Reports (title II) ..... 93–110
Peace Corps Act ..... 87–293
Peace Corps Act Amendments ..... 89–134
Peace Corps Authorization for Fiscal Years 1986 and 1987 (title XI) ..... 99–83
Peace Corps Authorization for Fiscal Year 1993 ..... 102–565
Peace Corps Reauthorization ..... 106–30
Peace Process in Liberia ..... 102–270
Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 ..... 102–25
Persian Gulf POW/MIA Accountability Act of 2002 ..... 107–258
Pesticide Monitoring Improvements Act of 1988 (title IV, subtitle G) ..... 100–418
PLO Commitments Compliance Act of 1989 (title VIII) 101–246
President's Emergency Food Assistance Act of 1984 (title III) ..... 98–473
Prevention of Child Abduction Partnership Act ..... 108–370
Primary Dealers Act of 1988 (title III, subtitle F) ..... 100–418
Proliferation Prevention Enhancement Act of 1999 (subtitle E, title XII, H.R. 3427, enacted by reference) ..... 106–113
Protection and Reduction of Government Secrecy Act (title IX) ..... 103–236
Protection of Antarctica ..... 101–620
Protection of Foreign Missions ..... 97–418
Providing for Increased Participation by the United States in the Inter-American and Asian Development Banks and African Development Fund ..... 96–259
Quincentenary of Voyage of Christopher Columbus ..... 102–472
R.M.S. Titanic Maritime Memorial Act of 1986 ..... 99–513
Radio Broadcasting to Cuba Act ..... 98–111
Radio Free Afghanistan ..... 107–148
Radio Free Asia Act of 1998 (title XXXIX) ..... 105–261
Reaffirming North Atlantic Alliance—United States Commitment ..... 96–9

Reaffirming the Unity of the North Atlantic Alliance Commitment ..... 95–287
Records Relating to Nazi Warm Crimes ..... 104–309
Refugee Act of 1980 ..... 96–212
Refugee Education Assistance Act of 1980 ..... 96–422
Release of USIA Materials to Museums ..... 99–475
Release of USIA Materials: "Fragile Ring of Life" ..... 104–161
Release of USIA Materials: VOA, Radio Marti Recordings ..... 104–269
Renewal of Import Restrictions—Burmese Freedom and Democracy Act of 2003 ..... 109–39
Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983 (title VIII) ..... 98–164
Resolution To Promote Peace and Stability in the Middle East ..... 85–7
Rhinoceros and Tiger Conservation Act of 1994 ..... 103–391
Rhinoceros and Tiger Conservation Act of 1998 ..... 105–312
Rhinoceros and Tiger Conservation Reauthorization Act of 2001 ..... 107–112
Rio Grande American Canal Extension Act of 1990 ..... 101–438
Rio Grande Pollution Correction Act of 1987 ..... 100–465
Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 ..... 108–375
Russian Democracy Act of 2002 ..... 107–246
Russian Federation Debt for Nonproliferation Act of 2002 (division B, title XIII, subtitle B) ..... 107–228
Ryukyu Islands Claims Settlement Act ..... 89–296
Sales of Arms to Jordan ..... 99–162
Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 ..... 109–108
Sea of Okhotsk Fisheries Enforcement Act of 1995 (title V) ..... 104–43
Secret Service Authorization and Technical Modification Act of 2005 ..... 109–177
Secure Embassy Construction and Counterterrorism Act of 1999 (title VI, division A, H.R. 3427, enacted by reference) ..... 106–113
Security Assistance Act of 1999 (title XII, H.R. 3427, enacted by reference) ..... 106–113
Security Assistance Act of 2000 ..... 106–280
Security Assistance Act of 2002 (division B) ..... 107–228
Senator Paul Simon Water for the Poor Act of 2005 ..... 109–121
Shark Finning Prohibition Act ..... 106–557
Silk Road Strategy Act of 1999 (sec. 596, H.R. 3422, enacted by reference) ..... 106–113
Small Business International Trade and Competitiveness Act (title VII) ..... 100–418
South African Democratic Transition Support Act of 1993 ..... 103–149
South Pacific Tuna Act of 1988 ..... 100–330
Soviet Nuclear Threat Reduction Act of 1991 (title II) 102–228
Soviet Scientists Immigration Act of 1992 ..... 102–509
Special Drawing Rights Act ..... 90–349

Special Foreign Assistance Act of 1971 ..... 91–652
Special Foreign Assistance Act of 1986 ..... 99–529
Special International Security Assistance Act of 1979 96–35
Spoils of War Act of 1994 (title V, part B) ..... 103–236
State Department Basic Authorities Act of 1956 ..... 84–885
State Department/USIA Authorization Act, Fiscal Year 1975 ..... 93–475
Steel Import Stabilization Act (title VIII) ..... 98–573
Strategic and Critical Materials Transaction Authorization Act of 1979 ..... 96–175
Striped Bass Conservation, Atlantic Coastal Fisheries Management and Marine Mammal Rescue Assistance Act of 2000 ..... 106–555
Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 ..... 105–261
Sudan Peace Act ..... 107–245
Supplemental Appropriations Act of 1993 ..... 103–50
Supplemental Appropriations Act, 1984 ..... 98–181
Supplemental Appropriations Act, 1985 ..... 99–88
Support for East European Democracy (SEED) Act of 1989 ..... 101–179
Support for Overseas Cooperative Development Act (sec. 401) ..... 106–309
Survival Assistance for Victims of Civil Strife in Central America ..... 101–215
Sustainable Fisheries Act ..... 104–297
Syria Accountability and Lebanese Sovereignty Restoration Act of 2003 ..... 108–175
Taiwan's Participation in the World Health Organization ..... 108–235
Taiwan's Participation in the World Health Organization ..... 108–28
Taiwan Relations Act ..... 96–8
Tariff Act of 1930 ..... 71–361
Tariff Suspension and Trade Act of 2000 ..... 106–476
Telecommunications Trade Act of 1988 (title I, subtitle C, part 4) ..... 100–418
Termination of Trade Restrictions to Czechoslovakia and Hungary ..... 102–182
Terrorist Bombings Covnention Implementation Act of 2002 ..... 107–197
Tibetan Policy Act 2002 (division A, title VI, subtitle B) ..... 107–228
To Provide Certain Authorities for the Department of State ..... 109–140
To Provide for an Investigation of the Whereabouts of U.S. Citizens Missing From Cyprus Since 1974 ..... 103–372
Tonkin Gulf Resolution ..... 88–408
Torture Victim Protection Act of 1991 ..... 102–256
Torture Victims Relief Reauthorization Act of 1999 ..... 106–87
Torture Victims Relief Reauthorization Act of 2005 ..... 109–165
Tourism Policy and Export Promotion Act of 1992 ..... 102–372
Trade Act of 1974 ..... 93–618
Trade Act of 2002 ..... 107–210

Trade Agreements Act of 1979 ..... 96–39
Trade and Development Act of 2000 ..... 106–200
Trade and Development Enhancement Act of 1983 (title VI, part C) ..... 98–181
Trade and Tariff Act of 1984 ..... 98–573
Trade Deficit Review Commission Act (division A, sec. 127) ..... 105–277
Trade Expansion Act of 1962 ..... 87–794
Trade Sanctions Reform and Export Enhancement Act of 2000 (title IX) ..... 106–387
Trading With the Enemy Act ..... 65–91
Trafficking Victims Protection Act of 2000 (division A) 106–386
Trafficking Victims Protection Reauthorization Act of 2005 ..... 109–164
Trans-Alaska Pipeline Authorization Act ..... 93–153
Transfer of Items To War Reserves Stockpile for Allies, Korea ..... 109–159
Tropical Forest Conservation Act of 1998 (part V) ..... 87–195
Tropical Forest Conservation Act Reauthorization ..... 108–323
Trust Territory of the Pacific Islands Act ..... 92–257
Tuna Conventions Act of 1950 ..... 81–764
United Nations Environment Program Participation Act of 1973 ..... 93–188
United Nations Headquarters Agreement Act ..... 80–357
United Nations Participation Act of 1945 ..... 79–264
United Nations Reform Act of 1998 (division F, subdivision C) ..... 105–277
United Nations Reform Act of 1999 (title IX, division A, H.R. 3427, enacted by reference) ..... 106–113
United States Additional Protocol Implementation Act 109–401
United States-Australia Free Trade Agreement Implementation Act ..... 108–286
United States-Canada Free Trade Agreement Implementation Act of 1988 ..... 100–449
United States-Chile Free Trade Agreement Implementation Act ..... 108–77
United States Government Opposition to the Practice of Torture ..... 98–447
United States Group of the North Atlantic Treaty Parliamentary Conferences—Participation Resolution ... 84–689
United States-Hong Kong Policy Act of 1992 ..... 102–383
United States-India Fund for Cultural, Educational, and Scientific Cooperation Act (title IX) ..... 98–164
United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act ..... 110–369
United States Information Agency Authorization for Fiscal Year 1977 (title II) ..... 94–350
United States Information Agency Authorization for Fiscal Year 1978 (title II) ..... 95–105
United States Information Agency Authorization Act, Fiscal Years 1982 and 1983 (title III) ..... 97–241
United States Information Agency Authorization Act, Fiscal Years 1984 and 1985 (title II) ..... 98–164

United States Information Agency Authorization Act, Fiscal Years 1986 and 1987 (title II) ..... 99–93
United States Information Agency Authorization Act, Fiscal Years 1988 and 1989 (title II) ..... 100–204
United States Information and Educational Exchange Act of 1948 ..... 80–402
United States Institute for Peace Act (title XVII) ..... 98–525
United States International Broadcasting Act of 1994 (title III) ..... 103–236
United States-Bahrain Free Trade Agreement Implementation Act ..... 109–169
United States-Israel Free Trade Area Implementation Act of 1985 ..... 99–47
United States-Japan Fishery Agreement Approval Act of 1987 ..... 100–220
United States-Jordan Free Trade Area Implementation Act ..... 107–43
United States-Korea Fishery Agreement ..... 100–66
United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 ..... 108–25
United States-Macau Policy Act of 2000 (title II) ..... 106–570
United States-Morocco Free Trade Agreement Implementation Act ..... 108–302
United States Policy in Iraq Act (section 1227) ..... 109–163
United States Policy Toward Haiti ..... 103–423
United States Recognition and Participation in International Expositions ..... 91–269
United States Scholarship Program for Developing Countries Authorization, Fiscal Years 1986 & 1987 (title VI) ..... 99–93
Uniting and Strengthening America By Providing Appropriate Tools Required To Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 ..... 107–56
Urgent Assistance for Democracy in Panama Act of 1990 ..... 101–243
Uruguay Rounds Agreements Act ..... 103–465
U.S.-China Relations Act of 2000 ..... 106–286
U.S. Holocaust Assets Commission Act of 1998 ..... 105–186
U.S.-U.S.S.R. Fishing Agreement ..... 100–629
USA PATRIOT Improvement and Reauthorization Act of 2005 ..... 109–177
Victims of Terrorism Compensation Act (title VIII) ..... 99–399
Victims of Trafficking and Violence Protection Act of 2000 ..... 106–386
Vietnam Education Foundation Act of 2000 (title II) ... 106–554
Visa for Officials of Taiwan ..... 103–416
War Powers Resolution ..... 93–148
Weapons of Mass Destruction Control Act of 1992 (title XV) ..... 102–484
Western Hemisphere Drug Elimination Act (division C, title VIII) ..... 105–277
Western Hemisphere Drug Elimination Technical Corrections Act ..... 106–35
Whaling Convention Act of 1949 ..... 81–676

Wild Bird Conservation Act of 1992 ..... 102–440
William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 ..... 110–457
Wine Equity and Export Expansion Act of 1984 (title IX) ..... 98–573
Withdrawal of MFN From Serbia and Montenegro ..... 102–420
World Food Day ..... 103–108
Yukon River Salmon Act of 1995 (title VII) ..... 104–43
Yukon River Salmon Act of 2000 ..... 106–450
Zimbabwe Democracy and Economic Recovery Act of 2001 ..... 107–99

## USE OF THE INDEX

The index is organized by subject matter only. Each subject entry also includes the legal citation indicating the document to which it refers. These legal citations were not chosen on the basis of standard legal citation form, but rather for the amount of information they provided and for convenience in producing a computer-printed index.

Page references, wherever possible, indicate the exact page on which mention of the entry is made. Entries of a more general nature that refer to a large section or to an entire document are listed with the page on which the reference begins.

# INDEX

## A


Abduction, child. See Child abduction, international

ACDA. See Arms Control and Disarmament Act

Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, FY 2000 and 2001. See Arms Control and Nonproliferation Act of 1999; National Security and Corporate Fairness under the Biological Weapons Convention Act; Proliferation Prevention Enhancement Act of 1999; United Nations Reform Act of 1999

Adoption
- Intercountry Adoption Act of 2000 ..... PL 106–279 ..... 1017

African Union
- Immunities, exemptions and privileges .. PL 79–291 Sec 11 ..... 860

AIDS. See Global Fund to Fight AIDS, Tuberculosis and Malaria

Albania
- Designation as eligible to receive NATO assistance. PL 110–17 Sec 4 ..... 814

Ambassadors
- Panama Canal authority ..... PL 96–70 Sec 1110 ..... 867

American Institute in Taiwan
- Appropriations authorization, 1980 ..... PL 96–8 Sec 16 ..... 846
- Congressional oversight ..... PL 96–8 Sec 14 ..... 845
- Definitions ..... PL 96–8 Sec 15 ..... 845
- Furnishing property and services and obtaining services from. PL 96–8 Sec 9 ..... 842
- Reporting requirement ..... PL 96–8 Sec 12 ..... 844
- Rules and regulations ..... PL 96–8 Sec 13 ..... 845
- Separation of government personnel for employment. PL 96–8 Sec 11 ..... 843
- Services to U.S. citizens on Taiwan ..... PL 96–8 Sec 7 ..... 841
- Severability of provisions ..... PL 96–8 Sec 17 ..... 846
- Taiwan instrumentality ..... PL 96–8 Sec 10 ..... 842
- Tax exempt status ..... PL 96–8 Sec 8 ..... 841
- U.S. policy ..... PL 96–8 Sec 6 ..... 841

American Institute in Taiwan Facilities Enhancement Act
- Appropriations authorization ..... PL 106–212 Sec 3 ..... 850
- Findings ..... PL 106–212 Sec 2 ..... 850

American Servicemembers' Protection Act of 2002. PL 107–206 ..... 783
- Alliance command arrangements ..... PL 107–206 Sec 2009 ..... 791
- Assistance to international efforts ..... PL 107–206 Sec 2015 ..... 794
- Constitutional authorities exercise ..... PL 107–206 Sec 2011 ..... 791
- Definitions ..... PL 107–206 Sec 2013 ..... 792
- Findings ..... PL 107–206 Sec 2002 ..... 783
- International Criminal Court
  - Authority to free members of the United States Armed Forces detained or imprisoned by. PL 107–206 Sec 2008 ..... 790

| | | |
|---|---|---|
| American Servicemembers' Protection Act of 2002—Continued | | |
| International Criminal Court—Continued | | |
| Prohibition on cooperation | PL 107–206 Sec 2004 | 787 |
| Prohibition on transfer of classified national security information. | PL 107–206 Sec 2006 | 789 |
| Nondelegation | PL 107–206 Sec 2012 | 792 |
| Restriction on U.S. participation in certain U.N. peacekeeping operations. | PL 107–206 Sec 2005 | 788 |
| Waiver and termination of prohibitions | PL 107–206 Sec 2003 | 785 |
| Withholdings | PL 107–206 Sec 2010 | 791 |
| Antipersonnel landmines | | |
| Moratorium on use by Armed Forces, report. | PL 104–106 Sec 1402 | 637 |
| | PL 105–85 Sec 1309 | 622 |
| Armed Forces in Somalia | | |
| Policy | PL 103–160 Sec 1512 | 774 |
| Arms control. See also Biological weapons; Chemical weapons; Cooperative Threat Reduction; National Defense Authorization Acts; Nuclear weapons; Weapons of mass destruction | | |
| Administration of proliferation sanctions | EO 12851 | 361 |
| Arrow Tactical Anti-Missile Program. | EO 12851 Sec 5 | 363 |
| Chemical and biological weapons | EO 12851 Sec 1 | 361 |
| China, report | EO 12851 Sec 4 | 363 |
| Delegations | EO 12851 Sec 6 | 364 |
| Middle East | EO 12851 Sec 3 | 363 |
| Missiles | EO 12851 Sec 2 | 362 |
| Priority | EO 12851 Sec 7 | 364 |
| Agreement between the United States and the IAEA for application of safeguards. | EO 13458 | 379 |
| Atomic Energy Act of 1954 | PL 83–703 | 405 |
| Byproduct material | | |
| Authorities of the Atomic Energy Commission. | PL 83–703 Sec 84 | 427 |
| Domestic distribution | PL 83–703 Sec 81 | 423 |
| Foreign distribution | PL 83–703 Sec 82 | 424 |
| Ownership and custody of material and disposal sites. | PL 83–703 Sec 83 | 425 |
| Declaration | PL 83–703 Sec 1 | 407 |
| Definitions | PL 83–703 Sec 11 | 409 |
| Findings | PL 83–703 Sec 2 | 407 |
| Information control | | |
| Classification and declassification of restricted data. | PL 83–703 Sec 142 | 464 |
| Department of Defense participation. | PL 83–703 Sec 143 | 465 |
| Dissemination of unclassified information prohibition. | PL 83–703 Sec 148 | 470 |
| Fingerprinting for criminal history record checks. | PL 83–703 Sec 149 | 472 |
| International cooperation in information control. | PL 83–703 Sec 144 | 465 |
| Policy | PL 83–703 Sec 141 | 464 |
| Restrictions | PL 83–703 Sec 145 | 468 |
| Safeguards | PL 83–703 Sec 147 | 468 |
| International activities | | |
| Authority to suspend nuclear cooperation. | PL 83–703 Sec 132 | 460 |
| Conduct resulting in termination of nuclear exports. | PL 83–703 Sec 129 | 448 |
| Congressional review procedures. | PL 83–703 Sec 130 | 451 |

| | | |
|---|---|---|
| Arms control—Continued | | |
| Atomic Energy Act of 1954—Continued | | |
| International activities—Continued | | |
| Consultation with Department of Defense concerning exports. | PL 83–703 Sec 133 | 460 |
| Cooperation with Berlin | PL 83–703 Sec 125 | 441 |
| Cooperation with other nations | PL 83–703 Sec 123 | 435 |
| Criteria governing U.S. nuclear exports. | PL 83–703 Sec 127 | 446 |
| Effect of arrangements | PL 83–703 Sec 121 | 123 |
| Export licensing procedures | PL 83–703 Sec 126 | 441 |
| Export restrictions | PL 83–703 Sec 134 | 460 |
| International atomic pool | PL 83–703 Sec 124 | 441 |
| Nuclear export procedures | PL 83–703 Sec 128 | 447 |
| Policies | PL 83–703 Sec 122 | 435 |
| Subsequent international arrangements. | PL 83–703 Sec 131 | 454 |
| Joint Committee on Atomic Energy | | |
| Abolishment of | PL 83–703 Sec 301 | 474 |
| Information and assistance to congressional committees. | PL 83–703 Sec 303 | 475 |
| Transfer of functions repeal | PL 83–703 Sec 302 | 475 |
| Licenses | | |
| Commercial | PL 83–703 Sec 103 | 431 |
| Medical therapy and research and development. | PL 83–703 Sec 104 | 433 |
| Nuclear Regulatory Commission authority. | PL 83–703 Sec 111 | 434 |
| Requirements | PL 83–703 Sec 101 | 431 |
| Utilization and production facilities. | PL 83–703 Sec 102 | 431 |
| | | 434 |
| Military application of atomic energy | | |
| Authorization | PL 83–703 Sec 91 | 428 |
| Prohibition | PL 83–703 Sec 92 | 430 |
| Purpose | PL 83–703 Sec 3 | 408 |
| Source material | | |
| Determinations | PL 83–703 Sec 61 | 422 |
| Foreign distribution | PL 83–703 Sec 64 | 422 |
| License for transfers required | PL 83–703 Sec 62 | 422 |
| Prohibition | PL 83–703 Sec 69 | 423 |
| Special nuclear material | | |
| Acquisition | PL 83–703 Sec 55 | 418 |
| Determinations | PL 83–703 Sec 51 | 416 |
| Foreign distribution | PL 83–703 Sec 54 | 416 |
| Guaranteed purchase prices | PL 83–703 Sec 56 | 419 |
| Prohibition | PL 83–703 Sec 57 | 419 |
| Review | PL 83–703 Sec 58 | 421 |
| Chemical and Biological Weapons Control and Warfare Elimination Act of 1991. | PL 102–182 | 349 |
| Determinations regarding use of weapons. | PL 102–182 Sec 306 | 351 |
| Duplicative provisions repeal | PL 102–182 Sec 309 | 357 |
| Export controls | PL 102–182 Sec 304 | 351 |
| Multilateral efforts | PL 102–182 Sec 303 | 350 |
| Purposes | PL 102–182 Sec 302 | 349 |
| Sanctions against use of weapons | PL 102–182 Sec 307 | 353 |
| Chemical Weapons Convention implementation. | EO 13128 | 371 |
| Chemical Weapons Convention Implementation Act of 1998. | PL 105–277 | 262 |
| Civil actions | PL 105–277 Sec 502(b) | 293 |
| Civil liability of the United States | PL 105–277 Sec 103 | 267 |
| Confidentiality of information | PL 105–277 Sec 404 | 290 |
| Constitutional rights, no abridgement of. | PL 105–277 Sec 102 | 267 |

Arms control—Continued
Chemical Weapons Convention Implementation Act of 1998—Continued
Criminal and civil penalties ..... PL 105–277 Sec 201 ..... 273
Criminal forfeitures ..... PL 105–277 Sec 201 ..... 275
Definitions ..... PL 105–277 Sec 3 ..... 263
PL 105–277 Sec 201 ..... 277
Destruction of weapons ..... PL 105–277 Sec 201 ..... 276
Enforcement jurisdiction ..... PL 105–277 Sec 502(a) ..... 293
Expedited judicial review ..... PL 105–277 Sec 503 ..... 294
Export privileges revocation ..... PL 105–277 Sec 211 ..... 279
Individual self-defense devices ..... PL 105–277 Sec 201 ..... 276
Injunctions ..... PL 105–277 Sec 201 ..... 276
Inspections
Authorization ..... PL 105–277 Sec 303 ..... 280
Definitions ..... PL 105–277 Sec 301 ..... 279
Facility agreements with regard to inspections. PL 105–277 Sec 302 ..... 279
Low concentrations of schedule 2 and 3 chemicals prohibition. PL 105–277 Sec 402 ..... 289
Military assistance requests to enforce prohibition. PL 105–277 Sec 201 ..... 277
National security exception ..... PL 105–277 Sec 307 ..... 287
Procedures ..... PL 105–277 Sec 304 ..... 281
Prohibited acts ..... PL 105–277 Sec 306 ..... 287
Report ..... PL 105–277 Sec 309 ..... 287
U.S. assistance at private facilities. PL 105–277 Sec 310 ..... 288
Warrants ..... PL 105–277 Sec 305 ..... 283
Penalties ..... PL 105–277 Sec 201 ..... 274
PL 105–277 Sec 501 ..... 292
Prohibited activities ..... PL 105–277 Sec 201 ..... 274
Prohibitions ..... PL 105–277 Sec 602 ..... 294
Recordkeeping violations ..... PL 105–277 Sec 405 ..... 291
United States National Authority
Designation ..... PL 105–277 Sec 101 ..... 267
Reports requirement ..... PL 105–277 Sec 401 ..... 288
Unscheduled discrete organic chemicals and byproducts in waste streams prohibition. PL 105–277 Sec 403 ..... 290
Combatting Proliferation of Weapons of Mass Destruction Act of 1996. PL 104–293 ..... 300
Commission
Duties of ..... PL 104–293 Sec 712 ..... 302
Establishment of ..... PL 104–293 Sec 711 ..... 300
Payment of expenses ..... PL 104–293 Sec 717 ..... 305
Personnel matters ..... PL 104–293 Sec 714 ..... 304
Powers of ..... PL 104–293 Sec 713 ..... 303
Termination of ..... PL 104–293 Sec 715 ..... 305
Contributions of foreign persons to efforts of countries of concern, report. PL 104–293 Sec 722 ..... 306
Definition ..... PL 104–293 Sec 716 ..... 305
Technology acquisition, reports ..... PL 104–293 Sec 721 ..... 305
Defense Against Weapons of Mass Destruction Act of 1996. PL 104–201 ..... 308
Allocation transfers among cooperative threat reduction programs. PL 104–201 Sec 1452 ..... 322
Assistance to states of former Soviet Union, sense of Congress. PL 104–201 Sec 1453 ..... 323
Chemical, biological, radiological, nuclear and high-yield explosives response team. PL 104–201 Sec 1414 ..... 313
Comprehensive preparedness program. PL 104–201 Sec 1443 ..... 321
Contracting policy, sense of Congress. PL 104–201 Sec 1451 ..... 322

Arms control—Continued
Defense Against Weapons of Mass Destruction Act of 1996—Continued
Criminal penalties, sense of Congress. PL 104–201 Sec 1423 ..... 317
Definitions ..... PL 104–201 Sec 1403 ..... 311
Detection equipment procurement for U.S. border security. PL 104–201 Sec 1421 ..... 317
Emergency preparedness for nuclear, radiological, chemical and biological weapons. PL 104–201 Sec 1415 ..... 313
Findings ..... PL 104–201 Sec 1402 ..... 309
International border security ..... PL 104–201 Sec 1424 ..... 318
Military assistance to civilian law enforcement officials in emergency situations. PL 104–201 Sec 1416 ..... 315
National Coordinator for Nonproliferation Matters. PL 104–201 Sec 1441 ..... 319
National Security Council Committee on Nonproliferation. PL 104–201 Sec 1442 ..... 320
Nuclear, chemical and biological emergency response. PL 104–201 Sec 1413 ..... 312
Plutonium production elimination ... PL 104–201 Sec 1432 ..... 318
Policy termination ..... PL 104–201 Sec 1444 ..... 322
Purchase, packaging and transportation of fissile materials at risk of theft. PL 104–201 Sec 1455 ..... 323
Purchase of low-enriched uranium derived from Russian highly enriched uranium. PL 104–201 Sec 1454 ..... 323
Rapid response information system PL 104–201 Sec 1417 ..... 316
Response to threats of terrorist incidents. PL 104–201 Sec 1411 ..... 311
Defense Against Weapons of Mass Destruction Act of 1998. PL 105–261 ..... 296
Advisory panel to assess domestic response capabilities. PL 105–261 Sec 1405 ..... 297
Domestic preparedness for response to threats of terrorist use of weapons. PL 105–261 Sec 1402 ..... 296
Threat and risk assessments ..... PL 105–261 Sec 1404 ..... 297
Department of Defense Authorization Act, FY 1985. PL 98–525 ..... 716
Biological and chemical weapon verification programs, sense of Congress. PL 98–525 Sec 1109 ..... 720
Nuclear risk reduction centers establishment in the United States and Soviet Union, sense of Congress. PL 98–525 Sec 1108 ..... 719
Nuclear winter findings and policy implications, report. PL 98–525 Sec 1107 ..... 718
Soviet compliance with arms control agreements, report. PL 98–525 Sec 1106 ..... 718
Strategic nuclear submarine force, report. PL 98–525 Sec 1101 ..... 716
Tactical nuclear warheads withdrawal from Europe, report. PL 98–525 Sec 1104 ..... 717
Theater nuclear weapons and force structure, report. PL 98–525 Sec 1103 ..... 716
Treaties to prevent nuclear testing policy. PL 98–525 Sec 1111 ..... 723
U.S. counterforce capability, report PL 98–525 Sec 1105 ..... 717
U.S. pursuit of outstanding arms control compliance, sense of Congress. PL 98–525 Sec 1110 ..... 721

| | | |
|---|---|---|
| Arms control—Continued | | |
| Department of Defense Authorization Act, FY 1986. | PL 99–145 | 711 |
| Arms control verification capabilities, study. | PL 99–145 Sec 1003 | 713 |
| Compliance with existing strategic offensive arms agreements policy. | PL 99–145 Sec 1001 | 711 |
| Exchange of high-ranking military and civilian personnel with the Soviet Union pilot program. | PL 99–145 Sec 1005 | 714 |
| Nuclear winter findings and policy implications, report. | PL 99–145 Sec 1006 | 714 |
| United States-Soviet negotiations on reduction in nuclear arms, sense of Congress. | PL 99–145 Sec 1004 | 714 |
| Department of Defense Authorization Act, FY 1987. | PL 99–661 | 707 |
| Chairman of the Joint Chiefs of Staff on non-compliance with strategic arms agreements, report. | PL 99–661 Sec 1003 | 708 |
| Nuclear risk reduction centers support, sense of Congress. | PL 99–661 Sec 1004 | 709 |
| Nuclear testing, sense of Congress | PL 99–661 Sec 1002 | 707 |
| SALT II compliance, sense of Congress. | PL 99–661 Sec 1001 | 707 |
| Department of Energy Act of 1978, Civilian Applications | | |
| Reports | PL 95–238 Sec 203 | 403 |
| | PL 95–238 Sec 208 | 403 |
| Enrichment Oversight Committee | EO 13085 | 510 |
| Domestic enrichment services | EO 13085 Sec 6 | 512 |
| Establishment | EO 13085 Sec 1 | 510 |
| Foreign ownership, control or influence. | EO 13085 Sec 5 | 511 |
| HEU Agreement oversight | EO 13085 Sec 4 | 511 |
| Nuclear Regulatory Commission coordination. | EO 13085 Sec 7 | 512 |
| Objectives | EO 13085 Sec 2 | 510 |
| Organization | EO 13085 Sec 3 | 510 |
| EURATOM Cooperation Act of 1958 | PL 85–846 | 514 |
| Appropriations authorization | PL 85–846 Sec 3 | 514 |
| | PL 85–846 Sec 4 | 515 |
| Definitions | PL 85–846 Sec 2 | 514 |
| Liability | PL 85–846 Sec 7 | 517 |
| Purchase authority | PL 85–846 Sec 6 | 516 |
| Sale or lease authority | PL 85–846 Sec 5 | 516 |
| Former Soviet Union Demilitarization Act of 1992 | | |
| Administration of programs | PL 102–484 Sec 1421 | 164 |
| Authorization of programs | PL 102–484 Sec 1412 | 162 |
| Findings | PL 102–484 Sec 1411 | 161 |
| FREEDOM Support Act | | |
| Appropriate congressional committees defined. | PL 102–511 Sec 508(c) | 155 |
| Defense conversion authorities funding limitations. | PL 102–511 Sec 505 | 153 |
| Eligibility for funds | PL 102–511 Sec 502 | 150 |
| Findings | PL 102–511 Sec 501 | 149 |
| Funding authorization | PL 102–511 Sec 504 | 152 |
| Funding provisions waiver | PL 102–511 Sec 507 | 154 |
| International Nonproliferation Initiative. | PL 102–511 Sec 509 | 155 |
| Notice of proposed obligations | PL 102–511 Sec 508(a) | 154 |
| Report to Congress | PL 102–511 Sec 508(b) | 155 |
| Research and Development Foundation. | PL 102–511 Sec 511 | 158 |

| | | |
|---|---|---|
| Arms control—Continued | | |
| FREEDOM Support Act—Continued | | |
| Soviet weapons destruction | PL 102–511 Sec 506 | 153 |
| Special nuclear materials, report | PL 102–511 Sec 510 | 158 |
| States of the former Soviet Union | PL 102–511 Sec 503 | 150 |
| Herbicides and riot control agents, renunciation of war use. | EO 11850 | 359 |
| Highly enriched uranium extracted from nuclear weapons, blocking property of the Russian Federation government related to disposition. | EO 13159 | 373 |
| International Atomic Energy Agency cooperation | | |
| Authority to carry out provisions of the Atomic Energy Act of 1954. | EO 10841 | 528 |
| Authorization for communication of restricted data by Central Intelligence Agency. | EO 10899 | 527 |
| Authorization for communication of restricted data by Department of State. | EO 11057 | 526 |
| International Atomic Energy Agency Participation Act of 1957. | PL 85–177 | 521 |
| Appointments | PL 85–177 Sec 2 | 521 |
| Appropriations authorization | PL 85–177 Sec 5 | 523 |
| Authority | PL 85–177 Sec 4 | 523 |
| Federal employees | PL 85–177 Sec 6 | 523 |
| Senate advise and consent refusal | PL 85–177 Sec 8 | 524 |
| U.S. participation | PL 85–177 Sec 3 | 522 |
| Iran, North Korea and Syria Nonproliferation Act. | PL 106–178 | 238 |
| Application of measures to certain foreign persons. | PL 106–178 Sec 3 | 240 |
| Definitions | PL 106–178 Sec 7 | 247 |
| Exemption from measures | PL 106–178 Sec 5 | 242 |
| International Space Station restriction on extraordinary payments. | PL 106–178 Sec 6 | 244 |
| Procedures if measures are not applied. | PL 106–178 Sec 4 | 242 |
| Reports | PL 106–178 Sec 2 | 239 |
| Iran-Iraq Arms Nonproliferation Act of 1992. | PL 102–484 | 344 |
| Application to Iran of certain Iraq sanctions. | PL 102–484 Sec 1603 | 345 |
| Definitions | PL 102–484 Sec 1608 | 347 |
| Policy | PL 102–484 Sec 1602 | 344 |
| Reporting requirements | PL 102–484 Sec 1607 | 347 |
| Sanctions | | |
| Against foreign countries | PL 102–484 Sec 1605 | 345 |
| Against persons | PL 102–484 Sec 1604 | 345 |
| Waiver | PL 102–484 Sec 1606 | 346 |
| Iran Nonproliferation Amendments Act of 2005. | PL 109–112 | 206 |
| Findings | PL 109–112 Sec 2 | 206 |
| Iran Nuclear Proliferation Prevention Act of 2002. | PL 107–228 | 232 |
| Annual review of IAEA projects | PL 107–228 Sec 1343 | 232 |
| Reporting requirements | PL 107–228 Sec 1344 | 233 |
| Sense of Congress | PL 107–228 Sec 1345 | 233 |
| National Missile Defense Act of 1999 | | |
| National missile defense policy | PL 106–38 Sec 2 | 261 |
| Reduction of Russian nuclear forces policy. | PL 106–38 Sec 3 | 261 |
| National Security and Corporate Fairness under the Biological Weapons Convention Act. | PL 106–113 | 250 |
| Definitions | PL 106–113 Sec 1122 | 251 |
| Findings | PL 106–113 Sec 1123 | 251 |

Arms control—Continued
National Security and Corporate Fairness under the Biological Weapons Convention Act—Continued
Nonproliferation program use of resources. PL 106–113 Sec 1132 ..... 254
Provision of information to Congress PL 106–113 Sec 1134 ..... 255
Science and technology centers
In the former Soviet Union ..... PL 106–113 Sec 1138 ..... 256
Research and activities ..... PL 106–113 Sec 1139 ..... 256
Trial investigations and visits ..... PL 106–113 Sec 1124 ..... 252
Weapons-grade material disposition PL 106–113 Sec 1133 ..... 254
Nonproliferation and Export Control Assistance, 2003. PL 107–228 ..... 214
Appropriations authorization ..... PL 107–228 Sec 1301 ..... 214
IAEA budget assessments and voluntary contributions. PL 107–228 Sec 1305 ..... 215
Reports ..... PL 107–228 Sec 1308 ..... 217
Scientist relocation ..... PL 107–228 Sec 1304(d) ..... 215
Technology acquisition programs for friendly foreign countries. PL 107–228 Sec 1302 ..... 214
Three-year international strategy .... PL 107–228 Sec 1309 ..... 220
Nonproliferation Assistance Coordination Act of 2002. PL 107–228 ..... 228
Administrative support ..... PL 107–228 Sec 1336 ..... 230
Authority ..... PL 107–228 Sec 1335(b) ..... 230
Committee on Nonproliferation Assistance establishment. PL 107–228 Sec 1334 ..... 229
Confidentiality of information ..... PL 107–228 Sec 1337 ..... 231
Consultation ..... PL 107–228 Sec 1339(b) ..... 231
Definitions ..... PL 107–228 Sec 1333 ..... 229
Findings ..... PL 107–228 Sec 1332 ..... 228
Purposes ..... PL 107–228 Sec 1335(a) ..... 229
Report ..... PL 107–228 Sec 1339(a) ..... 231
Statutory construction ..... PL 107–228 Sec 1338 ..... 231
Nonproliferation provisions in Foreign Relations Authorization Act, FY 2003. PL 107–228 ..... 234
Chemical Weapons Convention compliance. PL 107–228 Sec 1605 ..... 236
Detailing U.S. governmental personnel to international organizations. PL 107–228 Sec 1603 ..... 235
Diplomatic presence overseas ..... PL 107–228 Sec 1604 ..... 235
Real-time availability of seismological data. PL 107–228 Sec 1602 ..... 235
South Asia nuclear and missile nonproliferation. PL 107–228 Sec 1601 ..... 234
North Korea Threat Reduction Act of 1999. PL 106–113 ..... 500
Definitions ..... PL 106–113 Sec 823 ..... 501
Restrictions on nuclear cooperation PL 106–113 Sec 822 ..... 500
Nuclear cooperation between the United States and China
Approval of Agreement of July 23, 1985. PL 99–183 ..... 519
Nuclear material export
Low-enriched uranium fuel ..... PL 96–280 ..... 400
Special material and components to India. EO 12055 ..... 402
EO 12218 ..... 401
Nuclear Non-Proliferation Act of 1978 ... PL 95–242 ..... 380
Annual reports ..... PL 95–242 Sec 602 ..... 395
Definitions ..... PL 95–242 Sec 4 ..... 381
Developing countries assistance
Policy ..... PL 95–242 Sec 501 ..... 391
Programs ..... PL 95–242 Sec 502 ..... 392
Reports ..... PL 95–242 Sec 501 ..... 391

| | | |
|---|---|---|
| Arms control—Continued | | |
| Nuclear Non-Proliferation Act of 1978—Continued | | |
| Developing countries assistance—Continued | | |
| Reports—Continued | | |
| | PL 95–242 Sec 503 | 393 |
| Exports | | |
| Authority to continue agreements. | PL 95–242 Sec 405 | 391 |
| Control requirements | PL 95–242 Sec 402 | 388 |
| Controls | PL 95–242 Sec 309 | 387 |
| Environmental protection | PL 95–242 Sec 407 | 342 |
| Licensing procedures | PL 95–242 Sec 304 | 386 |
| Peaceful nuclear activities | PL 95–242 Sec 403 | 388 |
| Renegotiation of cooperation agreements. | PL 95–242 Sec 404 | 390 |
| Review | PL 95–242 Sec 406 | 391 |
| Initiatives to provide adequate nuclear fuel supply | | |
| International undertakings | PL 95–242 Sec 104 | 383 |
| Policy | PL 95–242 Sec 101 | 382 |
| Reevaluation of nuclear fuel cycle. | PL 95–242 Sec 105 | 384 |
| Report | PL 95–242 Sec 103 | 383 |
| Uranium enrichment capacity | PL 95–242 Sec 102 | 382 |
| International safeguard system strengthening | | |
| Negotiations | PL 95–242 Sec 203 | 386 |
| Policy | PL 95–242 Sec 201 | 385 |
| Training program | PL 95–242 Sec 202 | 385 |
| Policy statement | PL 95–242 Sec 2 | 380 |
| Presidential reports | PL 95–242 Sec 601 | 393 |
| Purpose statement | PL 95–242 Sec 3 | 381 |
| Saving clause | PL 95–242 Sec 603 | 397 |
| Nuclear non-proliferation functions | EO 12058 | 398 |
| Nuclear Proliferation Prevention Act of 1994. | PL 103–236 | 324 |
| Definitions | PL 103–236 Sec 830 | 331 |
| International Atomic Energy Agency | | |
| Bilateral and multilateral initiatives. | PL 103–236 Sec 841 | 332 |
| Definitions | PL 103–236 Sec 844 | 335 |
| Internal reforms | PL 103–236 Sec 842 | 333 |
| Reporting requirement | PL 103–236 Sec 843 | 334 |
| International financial institutions role. | PL 103–236 Sec 823 | 328 |
| Procurement sanction on persons engaging in export activities that contribute to proliferation. | PL 103–236 Sec 821 | 324 |
| Prohibition on assisting proliferation through the provision of financing. | PL 103–236 Sec 824 | 328 |
| Reporting on demarches, sense of Congress. | PL 103–236 Sec 828(b) | 330 |
| Nuclear Security Initiative Act of 2003 | PL 108–136 | 209 |
| Enhanced collaboration for more reliable Russian early warning systems, sense of Congress. | PL 108–136 Sec 3624 | 212 |
| Interparliamentary Threat Reduction Working Group establishment. | PL 108–136 Sec 3622 | 211 |
| Management assessment of threat reduction and nonproliferation programs. | PL 108–136 Sec 3611 | 209 |
| Nuclear and radiological security and safety discussions between IAEA and OECD. | PL 108–136 Sec 3631 | 212 |

Arms control—Continued
Nuclear Security Initiative Act of 2003—Continued
Russian tactical nuclear weapons, comprehensive inventory. PL 108–136 Sec 3621 ..... 211
United States and NATO cooperation with Russia on ballistic missile defenses, sense of Congress. PL 108–136 Sec 3623 ..... 211
Proliferation Prevention Enhancement Act of 1999. PL 106–113 ..... 257
Automated Export System
Definitions ..... PL 106–113 Sec 1256 ..... 260
Department of State licensing procedures acceleration. PL 106–113 Sec 1255 ..... 259
Mandatory use ..... PL 106–113 Sec 1252 ..... 258
Report to Congress ..... PL 106–113 Sec 1254 ..... 259
Voluntary use, sense of Congress. PL 106–113 Sec 1253 ..... 259
Russian Federation Debt Reduction for Nonproliferation Act of 2002. PL 107–228 ..... 221
Center for an Independent Press and the Rule of Law establishment. PL 107–228 Sec 1316 ..... 226
Congressional consultations ..... PL 107–228 Sec 1320 ..... 227
Debt reduction authority restriction PL 107–228 Sec 1317 ..... 226
Debt reduction with other creditor states, sense of Congress. PL 107–228 Sec 1318 ..... 227
Definitions ..... PL 107–228 Sec 1313 ..... 223
Findings ..... PL 107–228 Sec 1312(a) ..... 221
Purposes ..... PL 107–228 Sec 1312(b) ..... 223
Reduction of Soviet-era debt obligations to the U.S. authorization. PL 107–228 Sec 1314 ..... 224
Reports to Congress ..... PL 107–228 Sec 1321 ..... 227
Russian Federation Nonproliferation Investment Agreement. PL 107–228 Sec 1315 ..... 225
U.S. policy implementation, sense of Congress. PL 107–228 Sec 1319 ..... 227
Soviet Nuclear Threat Reduction Act of 1991. PL 102–228 ..... 166
Administration of program ..... PL 102–228 Sec 221 ..... 167
Authorization of program ..... PL 102–228 Sec 212 ..... 167
Dire emergency supplemental appropriations. PL 102–228 Sec 223 ..... 169
Emergency airlift authorization ..... PL 102–228 Sec 301 ..... 169
Prior notice of obligations to Congress. PL 102–228 Sec 231 ..... 169
Repayment arrangements ..... PL 102–228 Sec 222 ..... 168
Reporting requirements ..... PL 102–228 Sec 302 ..... 171
Soviet Nuclear Threat Reduction Appropriations, FY 1992
Arms sales restriction to Saudi Arabia and Kuwait. PL 102–229 Sec 104 ..... 173
Congressional designation of emergency. PL 102–229 Sec 202 ..... 176
Funds transfer ..... PL 102–229 Sec 108 ..... 174
PL 102–229 Sec 109 ..... 175
U.S. recognition of Ukrainian independence, sense of the Senate. PL 102–229 Sec 204 ..... 176
United States Enrichment Corporation Privatization Act. PL 104–134 ..... 502
Definitions ..... PL 104–134 Sec 3102 ..... 502
Establishment of private corporation PL 104–134 Sec 3105 ..... 504
Transfers to private corporation ..... PL 104–134 Sec 3106 ..... 505
United States Enrichment Corporation
Method of sale ..... PL 104–134 Sec 3104 ..... 503
Sale of ..... PL 104–134 Sec 3103 ..... 503
Uranium transfers and sales ..... PL 104–134 Sec 3112 ..... 505

| | | |
|---|---|---|
| Arms control—Continued | | |
| United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act. | PL 110–369 | 477 |
| Additional protocol between India and the IAEA. | PL 110–369 Sec 103 | 479 |
| Agreement approval | PL 110–369 Sec 101 | 478 |
| Certification requirement | PL 110–369 Sec 102(c) | 479 |
| Definitions | PL 110–369 Sec 2 | 477 |
| Policy declarations | PL 110–369 Sec 102(a) | 478 |
| | PL 110–369 Sec 102(b) | 478 |
| Procedures regarding subsequent reprocessing arrangement. | PL 110–369 Sec 201 | 480 |
| Rule of construction | PL 110–369 Sec 102(d) | 479 |
| Safeguard agreement implementation between India and the IAEA. | PL 110–369 Sec 104 | 479 |
| U.S. policy at the Nuclear Suppliers Group. | PL 110–369 Sec 204 | 480 |
| United States-India Peaceful Atomic Energy Cooperation Act of 2006. | PL 109–401 | 482 |
| Compliance with nuclear nonproliferation treaty obligations. | PL 109–401 Sec 105 | 496 |
| Congressional approval | PL 109–401 Sec 104 | 485 |
| Definitions | PL 109–401 Sec 110 | 497 |
| Inoperability of determination and waivers. | PL 109–401 Sec 106 | 496 |
| MTCR adherent status | PL 109–401 Sec 107 | 496 |
| Policy statements | PL 109–401 Sec 103 | 484 |
| Scientific cooperative nuclear nonproliferation program. | PL 109–401 Sec 109 | 497 |
| Sense of Congress | PL 109–401 Sec 102 | 482 |
| Waiver authority | PL 109–401 Sec 104 | 485 |
| Weapons of Mass Destruction Control Act of 1992. | PL 102–484 | 337 |
| International nonproliferation initiative. | PL 102–484 Sec 1505 | 340 |
| Nonproliferation activities of Department of Defense and Department of Energy, report. | PL 102–484 Sec 1503 | 338 |
| Nonproliferation technology initiative. | PL 102–484 Sec 1504 | 339 |
| Sense of Congress | PL 102–484 Sec 1502 | 337 |
| Weapons of mass destruction proliferation. | EO 12938 | 365 |
| Blocking property of proliferators and their supporters. | EO 13382 | 376 |
| Department of Commerce controls | EO 12938 Sec 3 | 366 |
| Imposition of controls | EO 12938 Sec 2 | 365 |
| International negotiations | EO 12938 Sec 1 | 365 |
| Judicial review | EO 12938 Sec 9 | 370 |
| Measures against foreign persons | EO 12938 Sec 4 | 366 |
| Preservation of authorities | EO 12938 Sec 8 | 369 |
| Revocation of orders | EO 12938 Sec 10 | 370 |
| Sanctions | | |
| Against foreign countries | EO 12938 Sec 5 | 368 |
| Duration of | EO 12938 Sec 6 | 369 |
| Implementation of | EO 12938 Sec 7 | 369 |
| Arms Control, Nonproliferation, and Security Assistance Act of 1999. See National Security and Corporate Fairness under the Biological Weapons Convention Act; Proliferation Prevention Enhancement Act of 1999 | | |
| Arms Control and Disarmament Act | PL 87–297 | 5 |
| Compliance verification | PL 87–297 Sec 306 | 14 |
| Comprehensive compilation of studies | PL 87–297 Sec 308 | 16 |
| Definitions | PL 87–297 Sec 103 | 8 |
| Dual compensation laws | PL 87–297 Sec 402 | 20 |
| General authority | PL 87–297 Sec 401 | 17 |

| | | |
|---|---|---|
| Arms Control and Disarmament Act—Continued | | |
| Information availability | PL 87–297 Sec 305 | 14 |
| Negotiation management | PL 87–297 Sec 304 | 13 |
| On-site inspection activities | | |
| Definitions | PL 87–297 Sec 504 | 26 |
| Findings | PL 87–297 Sec 501 | 24 |
| Policy coordination | PL 87–297 Sec 502 | 25 |
| Reprogramming notifications review | PL 87–297 Sec 503 | 26 |
| Patent rights | PL 87–297 Sec 302 | 12 |
| Policy formulation | PL 87–297 Sec 303(a) | 12 |
| Presidential Special Representatives | PL 87–297 Sec 201 | 9 |
| Prohibitions | PL 87–297 Sec 303(b) | 12 |
| Purpose | PL 87–297 Sec 102 | 6 |
| Records negotiation | PL 87–297 Sec 307 | 16 |
| Report to Congress, annual | PL 87–297 Sec 403 | 21 |
| Research authorization | PL 87–297 Sec 301 | 10 |
| Statutory construction | PL 87–297 Sec 303(c) | 12 |
| Visiting scholars program | PL 87–297 Sec 202 | 9 |
| World military expenditures and arms transfers, report. | PL 87–297 Sec 404 | 24 |
| Arms Control and Disarmament Act Authorization, FY 1986 and 1987. | PL 99–93 | 43 |
| Chemical weapons banning policy | PL 99–93 Sec 707 | 45 |
| Crisis stability and control study | PL 99–93 Sec 706 | 44 |
| Geneva structure for negotiating teams use. | PL 99–93 Sec 705 | 43 |
| Nuclear winter consequences, joint study policy. | PL 99–93 Sec 708 | 46 |
| Arms Control and Disarmament Act Authorization, FY 1988 and 1989. | PL 100–213 | 41 |
| Inspector General | PL 100–213 Sec 6 | 42 |
| Standing Consultative Commission | PL 100–213 Sec 3 | 41 |
| Arms Control and Disarmament Act Authorization, FY 1990 and 1991. | PL 101–216 | 39 |
| Arms control verification | PL 101–216 Sec 105 | 39 |
| Defense industries conversion, report | PL 101–216 Sec 106 | 40 |
| Implementation and compliance resolution. | PL 101–216 Sec 104 | 39 |
| Arms Control and Disarmament Agency | | |
| Appropriations authorization | PL 105–277 Sec 2601 | 36 |
| Revitalization of, report | PL 103–236 Sec 717 | 38 |
| Arms Control and Disarmament Agency Authorization, FY 1999 | | |
| Foreign relations authorization | | |
| Appropriate congressional committees, defined. | PL 105–277 Sec 2002 | 36 |
| United States Arms Control and Disarmament Agency | | |
| Appropriations authorization | PL 105–277 Sec 2601 | 36 |
| Arms Control and Nonproliferation Act of 1994. | PL 103–236 | 37 |
| Congressional declarations | PL 103–236 Sec 702(a) | 37 |
| Negotiating records | PL 103–236 Sec 713(b) | 38 |
| Purpose | PL 103–236 Sec 702(b) | 37 |
| Research and development coordination, report. | PL 103–236 Sec 711 | 38 |
| Revitalization of ACDA, report | PL 103–236 Sec 717 | 38 |
| Arms Control and Nonproliferation Act of 1999. | PL 106–113 | 30 |
| Assistant Secretary of State for Verification and Compliance. | PL 106–113 Sec 1112 | 32 |
| Definitions | PL 106–113 Sec 1102 | 31 |
| Key Verification Assets Fund | PL 106–113 Sec 1111 | 31 |
| Protection of U.S. companies | PL 106–113 Sec 1117 | 34 |
| Seismology data availability | PL 106–113 Sec 1116 | 34 |
| START and START II Treaties monitoring, report. | PL 106–113 Sec 1114 | 33 |

| | | |
|---|---|---|
| Arms Control and Nonproliferation Act of 1999—Continued | | |
| Transmittal of summaries requirement .. | PL 106–113 Sec 1118 | 35 |
| Verification standards | PL 106–113 Sec 1115 | 34 |
| Arms Control and Nonproliferation Authorization, FY 2003 | | |
| Security Assistance Act of 2002 | | |
| Key Verification Assets Fund | PL 107–228 Sec 1102 | 28 |
| Personnel appropriations | PL 107–228 Sec 1101(b) | 28 |
| Verification and compliance appropriations. | PL 107–228 Sec 1101(a) | 28 |
| Asia | | |
| Nuclear and missile nonproliferation in southern countries. | PL 107–228 Sec 1601 | 234 |
| Tonkin Gulf Resolution | PL 88–408 | 806 |
| Asia-Pacific region | | |
| Response to increased missile threat, report. | PL 105–261 Sec 1533 | 610 |
| Assistant Secretaries of State | | |
| Arms control verification and compliance | PL 106–113 Sec 1112 | 32 |
| Atomic Energy Act of 1954 | PL 83–703 | 405 |
| Authority to carry out international cooperation provisions. | EO 10841 | 528 |
| Byproduct material | | |
| Authorities of the Atomic Energy Commission. | PL 83–703 Sec 84 | 427 |
| Domestic distribution | PL 83–703 Sec 81 | 423 |
| Foreign distribution | PL 83–703 Sec 82 | 424 |
| Ownership and custody of material and disposal sites. | PL 83–703 Sec 83 | 425 |
| Declaration | PL 83–703 Sec 1 | 407 |
| Definitions | PL 83–703 Sec 11 | 409 |
| Findings | PL 83–703 Sec 2 | 407 |
| Information control | | |
| Classification and declassification of restricted data. | PL 83–703 Sec 142 | 464 |
| Department of Defense participation | PL 83–703 Sec 143 | 465 |
| Dissemination of unclassified information, prohibition against. | PL 83–703 Sec 148 | 470 |
| Fingerprinting for criminal history record checks. | PL 83–703 Sec 149 | 472 |
| International cooperation | PL 83–703 Sec 144 | 465 |
| Policy | PL 83–703 Sec 141 | 464 |
| Restrictions | PL 83–703 Sec 145 | 468 |
| Safeguards | PL 83–703 Sec 147 | 468 |
| International activities | | |
| Authority to suspend nuclear cooperation. | PL 83–703 Sec 132 | 460 |
| Conduct resulting in termination of nuclear exports. | PL 83–703 Sec 129 | 448 |
| Congressional review procedures | PL 83–703 Sec 130 | 451 |
| Consultation with Department of Defense concerning exports. | PL 83–703 Sec 133 | 460 |
| Cooperation with Berlin | PL 83–703 Sec 125 | 441 |
| Cooperation with other nations | PL 83–703 Sec 123 | 435 |
| Criteria governing U.S. nuclear exports. | PL 83–703 Sec 127 | 446 |
| Effect of arrangements | PL 83–703 Sec 121 | 123 |
| Export licensing procedures | PL 83–703 Sec 126 | 441 |
| Export restrictions | PL 83–703 Sec 134 | 460 |
| International atomic pool | PL 83–703 Sec 124 | 441 |
| Nuclear export procedures | PL 83–703 Sec 128 | 447 |
| Policies | PL 83–703 Sec 122 | 435 |
| Subsequent international arrangements. | PL 83–703 Sec 131 | 454 |
| Joint Committee on Atomic Energy | | |
| Abolishment | PL 83–703 Sec 301 | 474 |

| | | |
|---|---|---|
| Atomic Energy Act of 1954—Continued | | |
| Joint Committee on Atomic Energy—Continued | | |
| Information and assistance to congressional committees. | PL 83–703 Sec 303 | 475 |
| Transfer of functions repeal | PL 83–703 Sec 302 | 475 |
| Licenses | | |
| Commercial | PL 83–703 Sec 103 | 431 |
| Medical therapy and research and development. | PL 83–703 Sec 104 | 433 |
| Nuclear Regulatory Commission authority. | PL 83–703 Sec 111 | 434 |
| Requirements | PL 83–703 Sec 101 | 431 |
| Utilization and production facilities | PL 83–703 Sec 102 | 431 |
| | PL 83–703 Sec 109 | 434 |
| Military application of atomic energy | | |
| Authority | PL 83–703 Sec 91 | 428 |
| Prohibition | PL 83–703 Sec 92 | 430 |
| Nuclear exports | | |
| Procedures | PL 83–703 Sec 128 | 447 |
| Purpose | PL 83–703 Sec 3 | 408 |
| Source material | | |
| Determinations | PL 83–703 Sec 61 | 422 |
| Foreign distribution | PL 83–703 Sec 64 | 422 |
| License for transfers required | PL 83–703 Sec 62 | 422 |
| Prohibition | PL 83–703 Sec 69 | 423 |
| Special nuclear material | | |
| Acquisition | PL 83–703 Sec 55 | 418 |
| Determinations | PL 83–703 Sec 51 | 416 |
| Foreign distribution | PL 83–703 Sec 54 | 416 |
| Guaranteed purchase prices | PL 83–703 Sec 56 | 419 |
| Prohibition | PL 83–703 Sec 57 | 419 |
| Review | PL 83–703 Sec 58 | 421 |
| Atomic Energy Commission | | |
| Central Intelligence Agency authorization for communication of restricted data. | EO 10899 | 527 |
| Department of State authorization for communication of restricted data. | EO 11057 | 526 |
| Attorney General | | |
| Intercountry adoption responsibilities | PL 106–279 Sec 103 | 1021 |
| Authorization for Use of Military Force Against Iraq Resolution. | PL 102–1 | 770 |
| Authorization for Use of United States Armed Forces. | PL 102–1 Sec 2 | 770 |
| Reports | PL 102–1 Sec 3 | 771 |
| Authorization for Use of Military Force Against Iraq Resolution of 2002. | PL 107–243 | 740 |
| Authorization for use of United States Armed Forces. | PL 107–243 Sec 3 | 743 |
| Reports | PL 107–243 Sec 4 | 744 |
| Support for U.S. diplomatic efforts | PL 107–243 Sec 2 | 743 |
| Authorization for use of military force in response to terrorist attacks of September 11, 2001. | PL 107–40 | 746 |
| Authorization for use of military force in Somalia | | |
| Findings | PL 103–139 Sec 8151 | 772 |
| Automated Export System | | |
| Definitions | PL 106–113 Sec 1256 | 260 |
| Department of State licensing procedures acceleration. | PL 106–113 Sec 1255 | 259 |
| Mandatory use | PL 106–113 Sec 1252 | 258 |
| Report to Congress | PL 106–113 Sec 1254 | 259 |
| Voluntary use, sense of Congress | PL 106–113 Sec 1253 | 259 |

## B


| | | |
|---|---|---|
| Biological weapons. See also Arms control | | |
| Administration of proliferation sanctions | EO 12851 Sec 1 | 361 |
| Chemical and Biological Weapons Control and Warfare Elimination Act of 1991. | PL 102–182 | 349 |
| Determinations regarding use | PL 102–182 Sec 306 | 351 |
| Duplicative provisions repeal | PL 102–182 Sec 309 | 357 |
| Export controls | PL 102–182 Sec 304 | 351 |
| Multilateral efforts | PL 102–182 Sec 303 | 350 |
| Purposes | PL 102–182 Sec 302 | 349 |
| Sanctions against use | PL 102–182 Sec 307 | 353 |
| Emergency preparedness testing | PL 104–201 Sec 1415 | 313 |
| Emergency response | PL 104–201 Sec 1413 | 312 |
| Funds limitation to offensive warfare program of Russia. | PL 104–106 Sec 1208 | 133 |
| Funds use limitation for proliferation prevention activities in Russia. | PL 105–261 Sec 1305 | 113 |
| High-yield explosives response team | PL 104–201 Sec 1414 | 313 |
| Military assistance to civilian law enforcement officials in emergency situations. | PL 104–201 Sec 1416 | 315 |
| National Academy of Sciences study of proliferation prevention. | PL 109–364 Sec 1304 | 63 |
| | PL 110–181 Sec 1308 | 56 |
| Offensive warfare program of the former Soviet Union, report. | PL 103–337 Sec 1207 | 137 |
| Research restrictions in the former Soviet Union. | PL 108–136 Sec 1304 | 75 |
| Russian programs, report | PL 105–261 Sec 1308 | 116 |
| Verification programs, sense of Congress | PL 98–525 Sec 1109 | 720 |
| Biological Weapons Convention Act. See National Security and Corporate Fairness under the Biological Weapons Convention Act | | |
| Bob Stump National Defense Authorization Act, FY 2003. See Cooperative Threat Reduction, FY 2003; National Defense Authorization Act, FY 2003 | | |
| Border security | | |
| Detection equipment procurement for U.S. border. | PL 104–201 Sec 1421 | 317 |
| International borders | PL 104–201 Sec 1424 | 318 |


## C


| | | |
|---|---|---|
| Central Intelligence, Director of | | |
| Arms control and disarmament report input. | PL 106–398 Sec 1308(d) | 100 |
| National Intelligence Estimate 95–19 review. | PL 104–201 Sec 1311 | 633 |
| Central Intelligence Agency | | |
| Authorization for communication of restricted Atomic Energy Commission data. | EO 10899 | 527 |
| Geneva Conventions Common Article 3 interpretation as applied to a program of detention and interrogation. | EO 13440 | 764 |
| Assignment of function | EO 13440 Sec 4 | 766 |
| Definitions | EO 13440 Sec 2 | 764 |
| Determinations | EO 13440 Sec 1 | 764 |
| Program compliance | EO 13440 Sec 3 | 765 |
| Provisions | EO 13440 Sec 5 | 766 |
| Chemical and Biological Weapons Control and Warfare Elimination Act of 1991. | PL 102–182 | 349 |

Chemical and Biological Weapons Control and Warfare Elimination Act of 1991—Continued
- Determinations regarding use of weapons. PL 102–182 Sec 306 ..... 351
- Duplicative provisions repeal ..... PL 102–182 Sec 309 ..... 357
- Export controls ..... PL 102–182 Sec 304 ..... 351
- Multilateral efforts ..... PL 102–182 Sec 303 ..... 350
- Purposes ..... PL 102–182 Sec 302 ..... 349
- Sanctions against use of weapons ..... PL 102–182 Sec 307 ..... 353

Chemical weapons. See also Arms control
- Administration of proliferation sanctions EO 12851 Sec 1 ..... 361
- Destruction at Shchuch'ye, Russia, report. PL 110–181 Sec 1307 ..... 55
- Destruction facility in Russia, funding limitation. PL 104–106 Sec 1209 ..... 134
  - PL 105–85 Sec 1405 ..... 121
  - PL 108–136 Sec 1306 ..... 77
- Destruction of U.S. stockpile, sense of Congress. PL 109–364 Sec 921 ..... 544
- Elimination of Russian stockpile ..... PL 105–85 Sec 1406 ..... 121
  - PL 105–261 Sec 1304 ..... 112
  - PL 106–398 Sec 1309 ..... 101
- Emergency preparedness testing ..... PL 104–201 Sec 1415 ..... 313
- Emergency response ..... PL 104–201 Sec 1413 ..... 312
- Herbicides and riot control agents, renunciation of war use. EO 11850 ..... 359
- High-yield explosives response team ..... PL 104–201 Sec 1414 ..... 313
- Military assistance to civilian law enforcement officials in emergency situations. PL 104–201 Sec 1416 ..... 315
- Negotiations, sense of Congress ..... PL 101–189 Sec 1013 ..... 690
- Policy toward banning ..... PL 99–93 Sec 707 ..... 45
- Verification programs, sense of Congress PL 98–525 Sec 1109 ..... 720

Chemical Weapons Convention
- Assistance for facilities subject to inspection. PL 105–85 Sec 1303 ..... 616
- Compliance with ..... PL 107–228 Sec 1605 ..... 236
- Implementation of ..... EO 13128 ..... 371
- Ratification, sense of Congress ..... PL 104–106 Sec 1406 ..... 640
- U.S. obligations, sense of Congress ..... PL 105–85 Sec 1307 ..... 621

Chemical Weapons Convention Implementation Act of 1998. PL 105–277 ..... 262
- Civil actions ..... PL 105–277 Sec 502(b) ..... 293
- Civil liability of the United States
  - Cause of action authority ..... PL 105–277 Sec 103(d) ..... 269
  - Recoupment ..... PL 105–277 Sec 103(e) ..... 269
  - Taking of property claims ..... PL 105–277 Sec 103(a) ..... 267
  - Tort liability ..... PL 105–277 Sec 103(b) ..... 269
  - U.S. confidential business information defined. PL 105–277 Sec 103(g) ..... 273
  - Unauthorized disclosure of confidential business information sanctions. PL 105–277 Sec 103(f) ..... 272
  - Waiver of sovereign immunity ..... PL 105–277 Sec 103(c) ..... 269
- Confidentiality of information ..... PL 105–277 Sec 404 ..... 290
- Constitutional rights, no abridgement of PL 105–277 Sec 102 ..... 267
- Criminal and civil penalties ..... PL 105–277 Sec 201 ..... 273
- Criminal forfeitures ..... PL 105–277 Sec 201 ..... 275
- Definitions ..... PL 105–277 Sec 3 ..... 263
  - PL 105–277 Sec 201 ..... 277
- Destruction of weapons ..... PL 105–277 Sec 201 ..... 276
- Enforcement jurisdiction ..... PL 105–277 Sec 502(a) ..... 293
- Expedited judicial review ..... PL 105–277 Sec 503 ..... 294
- Export privileges revocation ..... PL 105–277 Sec 211 ..... 279
- Implementation of ..... EO 13128 ..... 371
- Individual self-defense devices ..... PL 105–277 Sec 201 ..... 276
- Injunctions ..... PL 105–277 Sec 201 ..... 276

Chemical Weapons Convention Implementation Act of 1998—Continued
Inspections
Authorization ..... PL 105–277 Sec 303 ..... 280
Definitions ..... PL 105–277 Sec 301 ..... 279
Facility agreements ..... PL 105–277 Sec 302 ..... 279
National security exception ..... PL 105–277 Sec 307 ..... 287
Procedures ..... PL 105–277 Sec 304 ..... 281
Prohibited acts ..... PL 105–277 Sec 306 ..... 287
Report ..... PL 105–277 Sec 309 ..... 287
U.S. assistance at private facilities .. PL 105–277 Sec 310 ..... 288
Warrants ..... PL 105–277 Sec 305 ..... 283
Low concentrations of schedule 2 and 3 chemicals prohibition. PL 105–277 Sec 402 ..... 289
Military assistance requests to enforce prohibition. PL 105–277 Sec 201 ..... 277
Penalties ..... PL 105–277 Sec 201 ..... 274
PL 105–277 Sec 501 ..... 292
Prohibited activities ..... PL 105–277 Sec 201 ..... 274
Prohibitions ..... PL 105–277 Sec 602 ..... 294
Recordkeeping violations ..... PL 105–277 Sec 405 ..... 291
United States National Authority
Designation ..... PL 105–277 Sec 101 ..... 267
Reports requirement ..... PL 105–277 Sec 401 ..... 288
Unscheduled discrete organic chemicals and byproducts in waste streams prohibition. PL 105–277 Sec 403 ..... 290
Child abduction, international
Convention on the Civil Aspects of International Child Abduction
Central Authority designation ..... EO 12648 Sec 1 ..... 1045
International Child Abduction Remedies Act. PL 100–300 ..... 1037
Admissibility of documents ..... PL 100–300 Sec 6 ..... 1040
Appropriations authorization ..... PL 100–300 Sec 12 ..... 1044
Costs and fees ..... PL 100–300 Sec 8 ..... 1042
Definitions ..... PL 100–300 Sec 3 ..... 1038
Findings and declarations ..... PL 100–300 Sec 2 ..... 1037
Information collection, maintenance and dissemination. PL 100–300 Sec 9 ..... 1042
Interagency coordinating group ..... PL 100–300 Sec 10 ..... 1043
Judicial remedies ..... PL 100–300 Sec 4 ..... 1039
Provisional remedies ..... PL 100–300 Sec 5 ..... 1040
United States Central Authority ..... PL 100–300 Sec 7 ..... 1040
Child health revolution ..... PL 98–198 ..... 1046
Children
Child health revolution ..... PL 98–198 ..... 1046
Convention on the Civil Aspects of International Child Abduction
Central Authority designation ..... EO 12648 Sec 1 ..... 1045
Extradition Treaties Interpretation Act of 1998
Findings ..... PL 105–323 Sec 202 ..... 1036
Interpretation of treaties ..... PL 105–323 Sec 203 ..... 1036
Intercountry Adoption Act of 2000 ..... PL 106–279 ..... 1017
Accreditation or approval
Process ..... PL 106–279 Sec 202 ..... 1023
Requirements ..... PL 106–279 Sec 201 ..... 1022
Standards and procedures ..... PL 106–279 Sec 203 ..... 1024
Appropriations authorization ..... PL 106–279 Sec 403 ..... 1032
Children emigrating from the United States. PL 106–279 Sec 303 ..... 1030
Children immigrating to the United States. PL 106–279 Sec 301 ..... 1029
Definitions ..... PL 106–279 Sec 3 ..... 1017
Documents of other countries ..... PL 106–279 Sec 402 ..... 1032
Enforcement ..... PL 106–279 Sec 404 ..... 1033
Fees collection ..... PL 106–279 Sec 403 ..... 1032

| | | |
|---|---|---|
| Children—Continued | | |
| Intercountry Adoption Act of 2000—Continued | | |
| Findings and purposes | PL 106–279 Sec 2 | 1017 |
| No private right of action | PL 106–279 Sec 504 | 1034 |
| Recognition of adoptions | PL 106–279 Sec 501 | 1034 |
| Records access | PL 106–279 Sec 401 | 1031 |
| Relationship to other laws | PL 106–279 Sec 503 | 1034 |
| Secretary of State | | |
| Oversight of accreditation or approval. | PL 106–279 Sec 204 | 1027 |
| Responsibilities | PL 106–279 Sec 102 | 1019 |
| Special rules | PL 106–279 Sec 502 | 1034 |
| Transition rule | PL 106–279 Sec 505 | 1035 |
| United States Central Authority | | |
| Attorney General responsibilities. | PL 106–279 Sec 103 | 1021 |
| Designation | PL 106–279 Sec 101 | 1019 |
| Report requirements | PL 106–279 Sec 104 | 1021 |
| International Child Abduction Remedies Act. | PL 100–300 | 1037 |
| Admissibility of documents | PL 100–300 Sec 6 | 1040 |
| Appropriations authorization | PL 100–300 Sec 12 | 1044 |
| Costs and fees | PL 100–300 Sec 8 | 1042 |
| Definitions | PL 100–300 Sec 3 | 1038 |
| Findings and declarations | PL 100–300 Sec 2 | 1037 |
| Information collection, maintenance and dissemination. | PL 100–300 Sec 9 | 1042 |
| Interagency coordinating group | PL 100–300 Sec 10 | 1043 |
| Judicial remedies | PL 100–300 Sec 4 | 1039 |
| Provisional remedies | PL 100–300 Sec 5 | 1040 |
| United States Central Authority | PL 100–300 Sec 7 | 1040 |
| China | | |
| Certification of missile equipment or technology. | PL 105–261 Sec 1512 | 602 |
| Nuclear cooperation with the United States. | PL 99–183 | 519 |
| Weapons proliferation report | EO 12851 Sec 4 | 363 |
| China (People's Republic of). See People's Republic of China | | |
| CIA. See Central Intelligence Agency | | |
| Classified information | | |
| Prohibition on transfer to the International Criminal Court. | PL 107–206 Sec 2006 | 789 |
| Combatting Proliferation of Weapons of Mass Destruction Act of 1996. | PL 104–293 | 300 |
| Commission | | |
| Duties of | PL 104–293 Sec 712 | 712 |
| Establishment of | PL 104–293 Sec 711 | 300 |
| Payment of expenses | PL 104–293 Sec 717 | 305 |
| Personnel matters | PL 104–293 Sec 714 | 304 |
| Powers of | PL 104–293 Sec 713 | 303 |
| Termination of | PL 104–293 Sec 715 | 305 |
| Contributions of foreign persons to efforts of countries of concern, report. | PL 104–293 Sec 722 | 306 |
| Definition | PL 104–293 Sec 716 | 305 |
| Technology acquisition, reports | PL 104–293 Sec 721 | 305 |
| Commerce, Department of | | |
| Chemical Weapons Convention implementation. | EO 13128 | 371 |
| Release of export information to other agencies for national security assessment. | PL 105–261 Sec 1522 | 608 |
| Weapons of mass destruction proliferation. | EO 12938 Sec 3 | 366 |

| | | |
|---|---|---|
| Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism | | |
| Composition of | PL 110–53 Sec 1853 | 189 |
| Establishment of | PL 110–53 Sec 1851 | 188 |
| Funding | PL 110–53 Sec 1859 | 192 |
| Nonapplicability of Federal Advisory Committee Act. | PL 110–53 Sec 1856 | 191 |
| Powers of | PL 110–53 Sec 1855 | 190 |
| Purposes of | PL 110–53 Sec 1852 | 188 |
| Report | PL 110–53 Sec 1857 | 192 |
| Responsibilities of | PL 110–53 Sec 1854 | 189 |
| Termination | PL 110–53 Sec 1858 | 192 |
| Commission to Assess the Ballistic Missile Threat to the United States | | |
| Administrative provisions | PL 104–201 Sec 1327 | 636 |
| Duties | PL 104–201 Sec 1322 | 634 |
| Establishment of | PL 104–201 Sec 1321 | 634 |
| Funding | PL 104–201 Sec 1328 | 636 |
| Personnel matters | PL 104–201 Sec 1326 | 635 |
| Powers | PL 104–201 Sec 1324 | 635 |
| Procedures | PL 104–201 Sec 1325 | 635 |
| Report | PL 104–201 Sec 1323 | 635 |
| Termination | PL 104–201 Sec 1329 | 636 |
| Computers, high-performance | | |
| End-use verification for use by People's Republic of China. | PL 106–65 Sec 1407 | 591 |
| Exporting to People's Republic of China, report. | PL 106–65 Sec 1406 | 591 |
| Consolidated Security, Disaster Assistance and Continuing Appropriations Act, 2009 | | |
| Cooperative threat reduction account | PL 110–329 Title II | 50 |
| Convention on the Civil Aspects of International Child Abduction | | |
| Central Authority designation | EO 12648 Sec 1 | 1045 |
| Conventional Forces in Europe Treaty Implementation Act of 1991. | PL 102–228 | 166 |
| Soviet weapons destruction | | |
| Administration of program | PL 102–228 Sec 221 | 167 |
| Authorization of program | PL 102–228 Sec 212 | 167 |
| Dire emergency supplemental appropriations. | PL 102–228 Sec 223 | 169 |
| Emergency airlift authorization | PL 102–228 Sec 301 | 169 |
| Prior notice of obligations to Congress. | PL 102–228 Sec 231 | 169 |
| Repayment arrangements | PL 102–228 Sec 222 | 168 |
| Reporting requirements | PL 102–228 Sec 302 | 171 |
| Cooperative Threat Reduction, FY 1993 | PL 103–160 | 142 |
| States of the former Soviet Union | | |
| Appropriate congressional committees defined. | PL 103–160 Sec 1208 | 147 |
| Authorization for additional FY 1993 assistance. | PL 103–160 Sec 1209 | 148 |
| Demilitarization Enterprise Fund | PL 103–160 Sec 1204 | 145 |
| Findings | PL 103–160 Sec 1202 | 143 |
| Funding authorization, FY 1994 | PL 103–160 Sec 1205 | 146 |
| Funds obligation, prior notice to Congress requirement. | PL 103–160 Sec 1206 | 147 |
| Programs authorization | PL 103–160 Sec 1203 | 143 |
| Cooperative Threat Reduction, FY 1995 | PL 103–337 | 135 |
| States of the former Soviet Union | | |
| Funding limitations | PL 103–337 Sec 1206 | 136 |
| Nuclear arsenal dismantlement, sense of Congress. | PL 103–337 Sec 1209 | 140 |
| Offensive biological warfare program, report. | PL 103–337 Sec 1207 | 137 |
| Program coordination | PL 103–337 Sec 1208 | 140 |
| Programs | PL 103–337 Sec 1201 | 136 |

| | | |
|---|---|---|
| Cooperative Threat Reduction, FY 1995—Continued | | |
| States of the former Soviet Union—Continued | | |
| Weapons of mass destruction, control and accountability of materials, report. | PL 103–337 Sec 1204 | 136 |
| Cooperative Threat Reduction, FY 1996 | PL 104–106 | 129 |
| States of the former Soviet Union | | |
| Chemical weapons destruction facility funds use limitation. | PL 104–106 Sec 1209 | 134 |
| Funding allocations | PL 104–106 Sec 1202 | 130 |
| Funds obligation, prior notice to Congress requirement. | PL 104–106 Sec 1205 | 132 |
| Nuclear weapons scientists, limitation on assistance. | PL 104–106 Sec 1207 | 133 |
| Offensive biological warfare program funds limitation. | PL 104–106 Sec 1208 | 133 |
| Peacekeeping activities funds use prohibition. | PL 104–106 Sec 1203 | 132 |
| Specification of programs | PL 104–106 Sec 1201 | 130 |
| Weapons destruction assistance authority. | PL 104–106 Sec 1204 | 132 |
| Cooperative Threat Reduction, FY 1997 | PL 104–201 | 124 |
| States of the former Soviet Union | | |
| Funding allocations | PL 104–201 Sec 1502 | 126 |
| Funds availability | PL 104–201 Sec 1505 | 128 |
| Funds use limitation until report submission. | PL 104–201 Sec 1504 | 127 |
| Funds use prohibition | PL 104–201 Sec 1503 | 127 |
| Specification of programs | PL 104–201 Sec 1501 | 125 |
| Strategic nuclear delivery systems, limitation on retirement or dismantlement. | PL 104–201 Sec 1302 | 533 |
| Cooperative Threat Reduction, FY 1998 | PL 105–85 | 118 |
| States of the former Soviet Union | | |
| Funding allocations | PL 105–85 Sec 1402 | 119 |
| Funds use limitation | | |
| Chemical weapons destruction | PL 105–85 Sec 1406 | 121 |
| Chemical weapons destruction facility. | PL 105–85 Sec 1405 | 121 |
| Fissile material storage facility | PL 105–85 Sec 1407 | 122 |
| START II Treaty | PL 105–85 Sec 1404 | 121 |
| Weapons storage security | PL 105–85 Sec 1408 | 122 |
| Funds use prohibition | PL 105–85 Sec 1403 | 120 |
| Payment of taxes, duties, and other assessments on assistance, report. | PL 105–85 Sec 1409 | 123 |
| Specification of programs and funds | PL 105–85 Sec 1401 | 119 |
| Cooperative Threat Reduction, FY 1999 | PL 105–261 | 110 |
| States of the former Soviet Union | | |
| Appropriations request summary submission requirement. | PL 105–261 Sec 1307 | 115 |
| Biological weapons programs in Russia, report. | PL 105–261 Sec 1308 | 116 |
| Cooperative counter proliferation program. | PL 105–261 Sec 1306 | 114 |
| Funding allocations | PL 105–261 Sec 1302 | 111 |
| Funds use limitation | | |
| Biological weapons proliferation prevention. | PL 105–261 Sec 1305 | 113 |
| Chemical weapons destruction | PL 105–261 Sec 1304 | 112 |
| Funds use prohibition | PL 105–261 Sec 1303 | 112 |
| Specification of programs and funds | PL 105–261 Sec 1301 | 111 |
| Weapons of mass destruction programs, report on individuals with expertise. | PL 105–261 Sec 1309 | 117 |
| Cooperative Threat Reduction, FY 2000 | PL 106–65 | 104 |

| | | |
|---|---|---|
| Cooperative Threat Reduction, FY 2000—Continued | | |
| States of the former Soviet Union | | |
| Expanded Threat Reduction Initiative, report. | PL 106–65 Sec 1309 | 108 |
| Funding allocations | PL 106–65 Sec 1302 | 105 |
| Funds use limitation | | |
| Fissile material storage facility | PL 106–65 Sec 1304 | 107 |
| Until certification submission | PL 106–65 Sec 1310 | 108 |
| Until report submission | PL 106–65 Sec 1306 | 107 |
| Funds use prohibition | PL 106–65 Sec 1303 | 106 |
| Report submission requirement | PL 106–65 Sec 1308 | 108 |
| Russian nonstrategic nuclear arms, sense of Congress. | PL 106–65 Sec 1312 | 109 |
| Specification of programs and funds | PL 106–65 Sec 1301 | 105 |
| Cooperative Threat Reduction, FY 2001 | PL 106–398 | 94 |
| States of the former Soviet Union | | |
| Activities and assistance, reports | PL 106–398 Sec 1308 | 98 |
| Audits, report | PL 106–398 Sec 1311 | 102 |
| Chemical weapons elimination | PL 106–398 Sec 1309 | 101 |
| Funding allocations | PL 106–398 Sec 1302 | 95 |
| Funds use limitation | | |
| Construction of fossil fuel energy plants, report. | PL 106–398 Sec 1307 | 97 |
| Elimination of conventional weapons. | PL 106–398 Sec 1303 | 96 |
| Elimination of Weapons Grade Plutonium Program. | PL 106–398 Sec 1310 | 102 |
| Fissile material storage facility | PL 106–398 Sec 1304 | 97 |
| Warhead dismantlement processing. | PL 106–398 Sec 1305 | 97 |
| Nuclear weapons storage sites agreement. | PL 106–398 Sec 1306 | 97 |
| Specification of programs and funds | PL 106–398 Sec 1301 | 95 |
| Cooperative Threat Reduction, FY 2002 | PL 107–107 | 89 |
| States of the former Soviet Union | | |
| Funding allocations | PL 107–107 Sec 1302 | 90 |
| Funds use limitation | | |
| Construction activities | PL 107–107 Sec 1306 | 92 |
| Fissile material storage facility | PL 107–107 Sec 1305 | 92 |
| Until report submission | PL 107–107 Sec 1303 | 92 |
| Revenue use requirement | PL 107–107 Sec 1304 | 92 |
| Specification of programs and funds | PL 107–107 Sec 1301 | 90 |
| Cooperative Threat Reduction, FY 2003 | PL 107–314 | 81 |
| Department of Energy programs | | |
| Elimination of weapons grade plutonium production in Russia. | PL 107–314 Sec 3151 | 86 |
| States of the former Soviet Union | | |
| Funding allocations | PL 107–314 Sec 1302 | 82 |
| Funds use limitation | | |
| Fissile material storage facility | PL 107–314 Sec 1305 | 84 |
| Until report submission | PL 107–314 Sec 1303 | 84 |
| Limited waiver of restrictions on use of funds. | PL 107–314 Sec 1306 | 84 |
| Specification of programs and funds | PL 107–314 Sec 1301 | 82 |
| Cooperative Threat Reduction, FY 2004 | PL 108–136 | 72 |
| Nuclear security initiative | | |
| Management assessment of threat reduction and nonproliferation programs. | PL 108–136 Sec 3611 | 79 |
| States of the former Soviet Union | | |
| Biological research restrictions | PL 108–136 Sec 1304 | 75 |
| Certification on use of facilities | PL 108–136 Sec 1307 | 77 |
| Chemical weapons destruction facility in Russia funding limitation waiver. | PL 108–136 Sec 1306 | 77 |
| Funding allocations | PL 108–136 Sec 1302 | 73 |
| Funds use authority | PL 108–136 Sec 1308 | 78 |

| | | |
|---|---|---|
| Cooperative Threat Reduction, FY 2004—Continued | | |
| States of the former Soviet Union—Continued | | |
| On-site manager requirements | PL 108–136 Sec 1305 | 76 |
| Permit requirements | PL 108–136 Sec 1303 | 74 |
| Specification of programs and funds | PL 108–136 Sec 1301 | 73 |
| Cooperative Threat Reduction, FY 2005 | PL 108–375 | 69 |
| States of the former Soviet Union | | |
| Funding allocations | PL 108–375 Sec 1302 | 70 |
| Specification of programs and funds | PL 108–375 Sec 1301 | 70 |
| Cooperative Threat Reduction, FY 2006 | PL 109–163 | 65 |
| States of the former Soviet Union | | |
| Elimination of impediments to programs, report. | PL 109–163 Sec 1304 | 67 |
| Funding allocations | PL 109–163 Sec 1302 | 66 |
| Specification of programs and funds | PL 109–163 Sec 1301 | 66 |
| Cooperative Threat Reduction, FY 2007 | PL 109–364 | 61 |
| States of the former Soviet Union | | |
| Biological weapons proliferation prevention, National Academy of Sciences study. | PL 109–364 Sec 1304 | 63 |
| Funding allocations | PL 109–364 Sec 1302 | 62 |
| Specification of programs and funds | PL 109–364 Sec 1301 | 62 |
| Cooperative Threat Reduction, FY 2008 | PL 110–181 | 51 |
| States of the former Soviet Union | | |
| Biological weapons proliferation prevention, National Academy of Sciences study. | PL 110–181 Sec 1308 | 56 |
| Chemical weapons destruction at Shchuch'ye, Russia, report. | PL 110–181 Sec 1307 | 55 |
| Funding allocations | PL 110–181 Sec 1302 | 52 |
| New initiatives | | |
| Funding | PL 110–181 Sec 1306(d) | 55 |
| National Academy of Sciences study. | PL 110–181 Sec 1306(b) | 55 |
| Secretary of Defense report | PL 110–181 Sec 1306(c) | 55 |
| Sense of Congress | PL 110–181 Sec 1306(a) | 54 |
| Restrictions on assistance repeal | PL 110–181 Sec 1304 | 53 |
| Specification of programs and funds | PL 110–181 Sec 1301 | 52 |
| Cooperative Threat Reduction, FY 2009 | PL 110–417 | 47 |
| Funding allocations | PL 110–417 Sec 1302 | 48 |
| Specifications of programs and funds | PL 110–417 Sec 1301 | 47 |
| Cooperative Threat Reduction Appropriations, FY 2009 | | |
| Cooperative threat reduction account | PL 110–329 Title II | 50 |
| Cooperative Threat Reduction Authorization in Response to 9/11 Commission Recommendations, FY 2008. | PL 110–53 | 58 |
| Findings | PL 110–53 Sec 1801 | 58 |
| Weapons of mass destruction proliferation and terrorism prevention | | |
| Assistance to accelerate programs | | |
| Appropriations authorization, 2008. | PL 110–53 Sec 1832 | 59 |
| | PL 110–53 Sec 1833 | 60 |
| Statement of policy | PL 110–53 Sec 1831 | 59 |
| Repeal and modification of assistance limitations. | PL 110–53 Sec 1811 | 58 |
| Cooperative Threat Reduction Program | | |
| Appropriations authorization, 2008 | PL 110–53 Sec 1832 | 59 |
| Council of the Organization of American States | | |
| Privileges to representatives of member states. | PL 82–486 | 982 |

| | | |
|---|---|---|
| Crime prevention | | |
| Foreign missions | | |
| Protection reimbursements, transfer of authority to the Secretary of State. | EO 12478 | 998 |
| Protection and Prevention of Crimes Against Internationally Protected Persons. | 18 USC | 988 |
| Conspiracy to murder | 18 USC Sec 1117 | 993 |
| Kidnapping | 18 USC Sec 1201 | 993 |
| Murder or manslaughter | 18 USC Sec 1116 | 991 |
| Property occupied by foreign governments. | 18 USC Sec 970 | 990 |
| Protection of foreign officials and official guests. | 18 USC Sec 112 | 988 |
| Threats and extortion | 18 USC Sec 878 | 990 |
| Protection of Foreign Diplomatic Missions by the United States Secret Service | | |
| Powers, authorities and duties of Uniformed Division | 18 USC Sec 3056A | 996 |
| Criminal Court, International. See International Criminal Court | | |
| Croatia | | |
| Designation as eligible to receive NATO assistance. | PL 110–17 Sec 4 | 814 |
| CTR. See Cooperative Threat Reduction | | |
| Cuban Resolution | PL 87–733 | 795 |


## D


| | | |
|---|---|---|
| Defense, Department of. See also Department of Defense Authorization Acts; National Defense Authorization Acts; Secretary of Defense | | |
| Chemical Weapons Convention implementation. | EO 13128 | 371 |
| Consultation concerning exports | PL 83–703 Sec 133 | 460 |
| Export controls | | |
| Activities authority | PL 105–261 Sec 1521 | 607 |
| Nonproliferation activities, report | PL 102–484 Sec 1503 | 338 |
| Notification of Committees on Armed Services with respect to nonproliferation and proliferation activities. | PL 110–417 Sec 1062 | 532 |
| Nuclear material information control | PL 83–703 Sec 143 | 465 |
| Nuclear security initiative | | |
| Management assessment of threat reduction and nonproliferation programs. | PL 108–136 Sec 3611 | 79 |
| Nuclear weapons, report | PL 110–417 Sec 1044 | 530 |
| Weapons of mass destruction proliferation and terrorism prevention programs | | |
| Appropriations authorization, 2008 | PL 110–53 Sec 1832 | 59 |
| Defense Against Weapons of Mass Destruction Act of 1996. | PL 104–201 | 308 |
| Allocation transfers among cooperative threat reduction programs. | PL 104–201 Sec 1452 | 322 |
| Assistance to states of former Soviet Union, sense of Congress. | PL 104–201 Sec 1453 | 323 |
| Chemical, biological, radiological, nuclear and high-yield explosives response team. | PL 104–201 Sec 1414 | 313 |
| Comprehensive preparedness program | PL 104–201 Sec 1443 | 321 |
| Contracting policy, sense of Congress | PL 104–201 Sec 1451 | 322 |
| Criminal penalties, sense of Congress | PL 104–201 Sec 1423 | 317 |
| Definitions | PL 104–201 Sec 1403 | 311 |

Defense Against Weapons of Mass Destruction Act of 1996—Continued
- Detection equipment procurement for U.S. border security. PL 104–201 Sec 1421 ..... 317
- Emergency preparedness testing for nuclear, radiological, chemical and biological weapons. PL 104–201 Sec 1415 ..... 313
- Findings ..... PL 104–201 Sec 1402 ..... 309
- International border security ..... PL 104–201 Sec 1424 ..... 318
- Military assistance to civilian law enforcement officials in emergency situations. PL 104–201 Sec 1416 ..... 315
- National Coordinator for Nonproliferation Matters. PL 104–201 Sec 1441 ..... 319
- National Security Council Committee on Nonproliferation. PL 104–201 Sec 1442 ..... 320
- Nuclear, chemical and biological emergency response. PL 104–201 Sec 1413 ..... 312
- Plutonium production elimination ..... PL 104–201 Sec 1432 ..... 318
- Policy termination ..... PL 104–201 Sec 1444 ..... 322
- Purchase, packaging and transportation of fissile materials at risk of theft, sense of Congress. PL 104–201 Sec 1455 ..... 323
- Purchase of low-enriched uranium derived from Russian highly enriched uranium. PL 104–201 Sec 1454 ..... 323
- Rapid response information system ..... PL 104–201 Sec 1417 ..... 316
- Response to threats of terrorist incidents PL 104–201 Sec 1411 ..... 311

Defense Against Weapons of Mass Destruction Act of 1998. PL 105–261 ..... 296
- Advisory panel to assess domestic response capabilities. PL 105–261 Sec 1405 ..... 297
- Domestic preparedness for response to threats of terrorist use of weapons. PL 105–261 Sec 1402 ..... 296
- Threat and risk assessments ..... PL 105–261 Sec 1404 ..... 297

Defense Threat Reduction Agency
- Enhancement of activities ..... PL 106–65 Sec 1409 ..... 592

Demilitarization. See Former Soviet Union Demilitarization Act of 1992

Demilitarization Enterprise Fund
- Consultation requirement ..... PL 103–160 Sec 1204(h) ..... 146
- Designation of ..... PL 103–160 Sec 1204(a) ..... 145
- Eligible organizations ..... PL 103–160 Sec 1204(e) ..... 145
- Experience of other Enterprise Funds .... PL 103–160 Sec 1204(g) ..... 146
- Grant authority ..... PL 103–160 Sec 1204(c) ..... 145
- Initial implementation ..... PL 103–160 Sec 1204(i) ..... 146
- Operational provisions ..... PL 103–160 Sec 1204(f) ..... 145
- Purpose of ..... PL 103–160 Sec 1204(b) ..... 145
- Risk capital funding ..... PL 103–160 Sec 1204(d) ..... 145
- Termination of designation ..... PL 103–160 Sec 1204(j) ..... 146

Department of Defense Authorization Act, FY 1985. PL 98–525 ..... 716
- Biological and chemical weapon verification programs, sense of Congress. PL 98–525 Sec 1109 ..... 720
- Nuclear risk reduction centers establishment in the United States and Soviet Union, sense of Congress. PL 98–525 Sec 1108 ..... 719
- Nuclear winter findings and policy implications, report. PL 98–525 Sec 1107 ..... 718
- Soviet compliance with arms control agreements, report. PL 98–525 Sec 1106 ..... 718
- Strategic nuclear submarine force, report. PL 98–525 Sec 1101 ..... 716
- Tactical nuclear warheads withdrawal from Europe, report. PL 98–525 Sec 1104 ..... 717
- Theater nuclear weapons and force structure, report. PL 98–525 Sec 1103 ..... 716

| | | |
|---|---|---|
| Department of Defense Authorization Act, FY 1985—Continued | | |
| Treaties to prevent nuclear testing policy. | PL 98–525 Sec 1111 | 723 |
| U.S. counterforce capability, report | PL 98–525 Sec 1105 | 717 |
| U.S. pursuit of outstanding arms control compliance, sense of Congress. | PL 98–525 Sec 1110 | 721 |
| Department of Defense Authorization Act, FY 1986. | PL 99–145 | 711 |
| Arms control verification capabilities, study. | PL 99–145 Sec 1003 | 713 |
| Compliance with existing strategic offensive arms agreements policy. | PL 99–145 Sec 1001 | 711 |
| Exchange of high-ranking military and civilian personnel with the Soviet Union pilot program. | PL 99–145 Sec 1005 | 714 |
| Nuclear winter findings and policy implications, report. | PL 99–145 Sec 1006 | 714 |
| United States-Soviet negotiations on reduction in nuclear arms, sense of Congress. | PL 99–145 Sec 1004 | 714 |
| Department of Defense Authorization Act, FY 1987. | PL 99–661 | 707 |
| Chairman of the Joint Chiefs of Staff on U.S. non-compliance with strategic arms agreements, report. | PL 99–661 Sec 1003 | 708 |
| Nuclear risk reduction centers support, sense of Congress. | PL 99–661 Sec 1004 | 709 |
| Nuclear testing, sense of Congress | PL 99–661 Sec 1002 | 707 |
| SALT II compliance, sense of Congress | PL 99–661 Sec 1001 | 707 |
| Department of Energy Act of 1978, Civilian Applications | | |
| Reports | PL 95–238 Sec 203 | 403 |
| | PL 95–238 Sec 208 | 403 |
| Department of State Authorities Act of 2006 | | |
| Diplomatic privileges for the Permanent Observer Mission of the Holy See to the United Nations. | PL 109–472 Sec 7 | 987 |
| Department of State Authorization Act, FY 2003. | PL 107–228 | 945 |
| United Nations | | |
| Department of State efforts to place U.S. citizens in positions of employment. | PL 107–228 Sec 409 | 948 |
| Membership of United States in UNESCO, sense of Congress. | PL 107–228 Sec 407 | 947 |
| Promotion of sound financial practices. | PL 107–228 Sec 404 | 946 |
| Secret ballot use | PL 107–228 Sec 406 | 947 |
| U.S. membership on Commission on Human Rights and International Narcotics Control Board. | PL 107–228 Sec 408 | 947 |
| Deputy Under Secretary of Defense for Technology Security Policy | | |
| Export control | PL 105–261 Sec 1521 | 607 |
| Diplomatic immunity. See Diplomatic Relations Act | | |
| Diplomatic missions in the United States. See Foreign diplomatic missions | | |
| Diplomatic reciprocity | | |
| Equivalency of representation between United States and hostile powers, sense of Congress. | PL 98–618 Sec 601 | 1014 |
| Soviet employees at United States diplomatic and consular missions in the Soviet Union. | PL 99–93 Sec 136 | 1016 |
| Diplomatic Relations Act | PL 95–393 | 1011 |

| | | |
|---|---|---|
| Diplomatic Relations Act—Continued | | |
| Authority to extend more or less favorable treatment. | PL 95–393 Sec 4 | 1012 |
| Definitions | PL 95–393 Sec 2 | 1011 |
| Direct actions against insurers of members of diplomatic missions and their families. | PL 95–393 Sec 7 | 1013 |
| Dismissal of actions against individuals entitled to immunity. | PL 95–393 Sec 5 | 1012 |
| Liability insurance requirement | PL 95–393 Sec 6 | 1012 |
| Vienna Convention | PL 95–393 Sec 3 | 1012 |
| Diplomats, foreign. See Diplomatic Relations Act; Foreign diplomats | | |
| Disarmament. See Arms control | | |
| Drug control | | |
| U.S. membership on United Nations International Narcotics Control Board. | PL 107–228 Sec 408 | 947 |
| Duncan Hunter National Defense Authorization Act, FY 2009. See Cooperative Threat Reduction, FY 2009; National Defense Authorization Act, FY 2009 | | |

**E**

| | | |
|---|---|---|
| Early warning systems | | |
| Enhanced collaboration for more reliable Russian systems, sense of Congress. | PL 108–136 Sec 3624 | 212 |
| Implementing the U.S. proposal in Sinai | PL 94–110 | 804 |
| Eastern Europe | | |
| Nuclear weapons reduction policy | PL 102–484 Sec 1321 | 666 |
| Egypt | | |
| Multinational Force and Observers Participation Resolution. | PL 97–132 | 798 |
| Definitions | PL 97–132 Sec 8 | 802 |
| Nonreimbursed costs | PL 97–132 Sec 5 | 800 |
| Participation of U.S. personnel | PL 97–132 Sec 3 | 799 |
| Reports | PL 97–132 Sec 6 | 801 |
| Statement of policy | PL 97–132 Sec 2 | 798 |
| Statements of congressional intent | PL 97–132 Sec 7 | 802 |
| U.S. contributions to costs | PL 97–132 Sec 4 | 799 |
| Embassies. See also Foreign diplomatic missions | | |
| Soviet employees at U.S. diplomatic and consular missions in the Soviet Union. | PL 99–93 Sec 136 | 1016 |
| Emergencies. See National Emergencies Act | | |
| Energy, Department of | | |
| Chemical Weapons Convention implementation. | EO 13128 | 371 |
| Department of Energy Act of 1978, Civilian Applications, reports. | PL 95–238 Sec 203 | 403 |
| | PL 95–238 Sec 208 | 403 |
| Global initiatives for proliferation prevention program, review and reports. | PL 110–417 Sec 3116 | 536 |
| Global nuclear energy partnership, limitation on availability of funds. | PL 110–417 Sec 3117 | 537 |
| International Materials Protection, Control and Accounting Program. | PL 107–314 Sec 3156 | 571 |
| International nuclear materials protection and cooperation program funds use outside the former Soviet Union. | PL 108–136 Sec 3124 | 565 |
| National security programs | | |
| Elimination of weapons grade plutonium production in Russia. | PL 107–314 Sec 3151 | 86 |
| Enhancing nuclear forensics capabilities. | PL 110–417 Sec 3114 | 535 |
| Nonproliferation activities, report | PL 102–484 Sec 1503 | 338 |

| | | |
|---|---|---|
| Energy, Department of—Continued | | |
| Nonproliferation monitoring, report | PL 106–398 Sec 3173 | 585 |
| Nuclear security initiative | | |
| Management assessment of threat reduction and nonproliferation programs. | PL 108–136 Sec 3611 | 79 |
| | | 209 |
| On-site managers | PL 108–136 Sec 3125 | 566 |
| Reduction of excessive unobligated or unexpended balances for defense nuclear nonproliferation activities, report. | PL 108–136 Sec 3122 | 564 |
| Weapons-grade uranium and plutonium of the former Soviet Union, study and report. | PL 108–136 Sec 3123 | 564 |
| Weapons of mass destruction proliferation and terrorism prevention programs | | |
| Appropriations authorization, 2008 | PL 110–53 Sec 1833 | 60 |
| Enrichment Oversight Committee | EO 13085 | 510 |
| Domestic enrichment services | EO 13085 Sec 6 | 512 |
| Establishment | EO 13085 Sec 1 | 510 |
| Foreign ownership, control or influence | EO 13085 Sec 5 | 511 |
| HEU Agreement oversight | EO 13085 Sec 4 | 511 |
| Nuclear Regulatory Commission coordination. | EO 13085 Sec 7 | 512 |
| Objectives | EO 13085 Sec 2 | 510 |
| Organization | EO 13085 Sec 3 | 510 |
| Environmental issues | | |
| Notification to Congress of IAEA Board approval of sampling. | PL 109–401 Sec 251 | 202 |
| Panama Canal Joint Commission on the Environment. | PL 96–70 Sec 1106 | 865 |
| United Nations Environment Program | | |
| Appropriations authorization | PL 93–188 | 971 |
| U.S. obligations under Chemical Weapons Convention and environmental laws, sense of Congress. | PL 105–85 Sec 1307 | 621 |
| Estonia | | |
| NATO membership, sense of Congress | PL 104–208 Sec 605 | 826 |
| EURATOM Cooperation Act of 1958 | PL 85–846 | 514 |
| Appropriations authorization | PL 85–846 Sec 3 | 514 |
| | PL 85–846 Sec 4 | 515 |
| Definitions | PL 85–846 Sec 2 | 514 |
| Liability | PL 85–846 Sec 7 | 517 |
| Purchase authority | PL 85–846 Sec 6 | 516 |
| Sale or lease authority | PL 85–846 Sec 5 | 516 |
| European Atomic Energy Community. See EURATOM Cooperation Act of 1958 | | |
| European Central Bank | | |
| Immunities, exemptions and privileges | PL 79–291 Sec 15 | 981 |
| European Security Act of 1998 | PL 105–277 | 816 |
| Authorities relating to NATO enlargement. | PL 105–277 Sec 2703 | 818 |
| Ballistic missile defense restrictions and requirements. | PL 105–277 Sec 2705 | 820 |
| Statement of policy | PL 105–277 Sec 2702 | 816 |
| Treaty on Conventional Armed Forces in Europe, sense of Congress. | PL 105–277 Sec 2704 | 819 |
| European Space Agency | | |
| Immunities, exemptions and privileges | PL 79–291 Sec 11 | 979 |
| Expanded Threat Reduction Initiative | | |
| Report to Congress | PL 106–65 Sec 1309 | 108 |
| Exports | | |
| Arms control | | |
| Chemical and biological weapons controls. | PL 102–182 Sec 304 | 351 |
| Department of Commerce weapons of mass destruction controls. | EO 12938 Sec 3 | 366 |

| | | |
|---|---|---|
| Exports—Continued | | |
| Arms control—Continued | | |
| Enhanced multilateral controls | PL 106–65 Sec 1408 | 592 |
| License functions resources | PL 106–65 Sec 1403 | 589 |
| Automated Export System | | |
| Definitions | PL 106–113 Sec 1256 | 260 |
| Department of State licensing procedures acceleration. | PL 106–113 Sec 1255 | 259 |
| Mandatory use | PL 106–113 Sec 1252 | 258 |
| Report to Congress | PL 106–113 Sec 1254 | 259 |
| Voluntary use, sense of Congress | PL 106–113 Sec 1253 | 259 |
| Controls, sense of Congress | PL 104–201 Sec 1308 | 631 |
| Department of Defense control activities authority. | PL 105–261 Sec 1521 | 607 |
| Deputy Under Secretary of Defense for Technology Security Policy. | PL 105–261 Sec 1521 | 607 |
| High-performance computers to People's Republic of China, report. | PL 106–65 Sec 1406 | 591 |
| Landmine moratorium | PL 102–484 Sec 1365 | 669 |
| Nuclear export reporting requirement | PL 105–261 Sec 1523 | 608 |
| Nuclear material | | |
| Conduct resulting in termination | PL 83–703 Sec 129 | 448 |
| Consultation with Department of Defense. | PL 83–703 Sec 133 | 460 |
| Criteria governing U.S. material | PL 83–703 Sec 127 | 446 |
| Criterion and procedures | PL 83–703 Sec 128 | 447 |
| Licensing procedures | PL 83–703 Sec 126 | 441 |
| Low-enriched uranium fuel | PL 96–280 | 400 |
| Nonproliferation controls | PL 95–242 Sec 309 | 387 |
| | PL 95–242 Sec 402 | 388 |
| Nonproliferation licensing procedures. | PL 95–242 Sec 304 | 386 |
| Restrictions | PL 83–703 Sec 134 | 460 |
| Special material and components to India. | EO 12055 | 402 |
| | EO 12218 | 401 |
| Nuclear materials control programs | PL 107–314 Sec 3159 | 572 |
| Release of information by Department of Commerce to other agencies for national security assessment. | PL 105–261 Sec 1522 | 608 |
| Satellites | | |
| Certification of missile equipment or technology to China. | PL 105–261 Sec 1512 | 602 |
| Licensing | PL 106–65 Sec 1404 | 590 |
| Manufacturer violations | PL 106–65 Sec 1412 | 595 |
| National security controls on licensing. | PL 105–261 Sec 1514 | 603 |
| People's Republic of China launching, report. | PL 105–261 Sec 1515 | 605 |
| Related items defined | PL 105–261 Sec 1516 | 605 |
| Sense of Congress | PL 105–261 Sec 1511 | 601 |
| United States Munitions List | PL 105–261 Sec 1513 | 602 |
| Extradition Treaties Interpretation Act of 1998 | | |
| Findings | PL 105–323 Sec 202 | 1036 |
| Interpretation of treaties | PL 105–323 Sec 203 | 1036 |


**F**


| | | |
|---|---|---|
| Federal Bureau of Investigation | | |
| Chemical Weapons Convention Implementation Act implementation. | PL 106–113 Sec 1117 | 34 |

| | | |
|---|---|---|
| Floyd D. Spence National Defense Authorization Act, FY 2001. See Cooperative Threat Reduction, FY 2001; National Defense Authorization Act, FY 2001 | | |
| Foreign diplomatic missions | | |
| Protection of | | |
| Property occupied by foreign governments. | 18 USC Sec 970 | 990 |
| Transfer of authority to the Secretary of State to make reimbursements. | EO 12478 | 998 |
| United States Secret Service powers, authorities and duties. | 18 USC Sec 3056A | 996 |
| Foreign diplomats | | |
| Protection and Prevention of Crimes Against Internationally Protected Persons. | 18 USC | 988 |
| Conspiracy to murder | 18 USC Sec 1117 | 993 |
| Kidnapping | 18 USC Sec 1201 | 993 |
| Murder or manslaughter | 18 USC Sec 1116 | 991 |
| Property occupied by foreign governments. | 18 USC Sec 970 | 990 |
| Protection of foreign officials and official guests. | 18 USC Sec 112 | 988 |
| Threats and extortion | 18 USC Sec 878 | 990 |
| Foreign Relations Authorization Act, FY 1998 and 1999 | | |
| Appropriate congressional committees, defined. | PL 105–277 Sec 2002 | 36 |
| Foreign Relations Authorization Act, FY 2000 and 2001. See Arms Control and Nonproliferation Act of 1999; National Security and Corporate Fairness under the Biological Weapons Convention Act; Proliferation Prevention Enhancement Act of 1999; United Nations Reform Act of 1999 | | |
| Foreign Relations Authorization Act, FY 2003. See also Department of State Authorization Act, FY 2003 | | |
| Nonproliferation provisions | PL 107–228 | 234 |
| Chemical Weapons Convention compliance. | PL 107–228 Sec 1605 | 236 |
| Detailing U.S. governmental personnel to international organizations. | PL 107–228 Sec 1603 | 235 |
| Diplomatic presence overseas | PL 107–228 Sec 1604 | 235 |
| Real-time availability of seismological data. | PL 107–228 Sec 1602 | 235 |
| South Asia nuclear and missile nonproliferation. | PL 107–228 Sec 1601 | 234 |
| Foreign Relations Authorization Acts | | |
| U.N. provisions | Note | 968 |
| Foreign sovereign immunities | 28 USC | 999 |
| Actions against foreign states | 28 USC Sec 1330 | 999 |
| Counterclaims | 28 USC Sec 1607 | 1005 |
| Default | 28 USC Sec 1608 | 1006 |
| Definitions | 28 USC Sec 1603 | 1000 |
| Exceptions to the immunity from attachment or execution. | 28 USC Sec 1610 | 1007 |
| Exceptions to the jurisdictional immunity of a foreign state. | 28 USC Sec 1605 | 1001 |
| Extent of liability | 28 USC Sec 1606 | 1005 |
| Findings and declaration of purpose | 28 USC Sec 1602 | 1000 |
| Immunity from attachment and execution of property of a foreign state. | 28 USC Sec 1609 | 1007 |
| Immunity of a foreign state from jurisdiction. | 28 USC Sec 1604 | 1000 |
| Service | 28 USC Sec 1608 | 1006 |

| | | |
|---|---|---|
| Foreign sovereign immunities—Continued | | |
| Time to answer | 28 USC Sec 1608 | 1006 |
| Types of property immune from execution. | 28 USC Sec 1611 | 1010 |
| Former Soviet Union Demilitarization Act of 1992. | PL 102–484 | 161 |
| Administration of programs | PL 102–484 Sec 1421 | 164 |
| Authorization of programs | PL 102–484 Sec 1412 | 162 |
| Findings | PL 102–484 Sec 1411 | 161 |
| Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992. See FREEDOM Support Act | | |
| FREEDOM Support Act | PL 102–511 | 149 |
| Nonproliferation and disarmament programs | | |
| Appropriate congressional committees defined. | PL 102–511 Sec 508(c) | 155 |
| Defense conversion authorities funding limitations. | PL 102–511 Sec 505 | 153 |
| Eligibility for funds | PL 102–511 Sec 502 | 150 |
| Findings | PL 102–511 Sec 501 | 149 |
| Funding authorization | PL 102–511 Sec 504 | 152 |
| Funding provisions waiver | PL 102–511 Sec 507 | 154 |
| International Nonproliferation Initiative. | PL 102–511 Sec 509 | 155 |
| Notice of proposed obligations | PL 102–511 Sec 508(a) | 154 |
| Report to Congress | PL 102–511 Sec 508(b) | 155 |
| Research and Development Foundation. | PL 102–511 Sec 511 | 158 |
| Soviet weapons destruction | PL 102–511 Sec 506 | 153 |
| Special nuclear materials, report | PL 102–511 Sec 510 | 158 |
| States of the former Soviet Union | PL 102–511 Sec 503 | 150 |
| FYROM. See Macedonia | | |


## G


| | | |
|---|---|---|
| Geneva Conventions | | |
| Common Article 3 interpretation as applied to a program of detention and interrogation. | EO 13440 | 764 |
| Assignment of function | EO 13440 Sec 4 | 766 |
| Definitions | EO 13440 Sec 2 | 764 |
| Determinations | EO 13440 Sec 1 | 764 |
| Program compliance | EO 13440 Sec 3 | 765 |
| Provisions | EO 13440 Sec 5 | 766 |
| Georgia | | |
| Designation as eligible to receive NATO assistance. | PL 110–17 Sec 4 | 814 |
| Germany | | |
| Nuclear material cooperation | PL 83–703 Sec 125 | 441 |
| Global Fund to Fight AIDS, Tuberculosis and Malaria | | |
| Immunities, exemptions and privileges | PL 79–291 Sec 16 | 981 |
| Global Threat Reduction Initiative | | |
| Appropriations authorization, 2008 | PL 110–53 Sec 1833 | 60 |


## H


| | | |
|---|---|---|
| Haiti | | |
| United States policy toward Haiti | PL 103–423 | 767 |
| Human rights, report | PL 103–423 Sec 4 | 769 |
| Presidential statement of national security objectives. | PL 103–423 Sec 2 | 767 |
| Report | PL 103–423 Sec 3 | 768 |
| U.N. mission transition | PL 103–423 Sec 6 | 769 |

| | | |
|---|---|---|
| Haiti—Continued | | |
| United States policy toward Haiti—Continued | | |
| U.S. agreements, report | PL 103–423 Sec 5 | 769 |
| United States Armed Forces operations, sense of Congress. | PL 103–423 Sec 1 | 767 |
| Health, children | | |
| Child health revolution | PL 98–198 | 1046 |
| Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006. See United States-India Peaceful Atomic Energy Cooperation Act of 2006 | | |
| Herbicides | | |
| Renunciation of war use | EO 11850 | 359 |
| HEU Agreements. See Highly Enriched Uranium Agreements | | |
| Highly Enriched Uranium Agreements | | |
| Conversion provisions | EO 13159 | 373 |
| Oversight Subcommittee | EO 13085 Sec 4 | 511 |
| Hong Kong Economic and Trade Offices | PL 105–22 Sec 1 | 986 |
| Hostile governments | | |
| Policy toward certain agents of foreign governments, sense of Congress. | PL 98–618 Sec 601 | 1014 |
| Human rights | | |
| Haiti, reports | PL 103–423 Sec 4 | 769 |
| U.S. membership on United Nations Commission on Human Rights. | PL 107–228 Sec 408 | 947 |
| Hunter National Defense Authorization Act, FY 2009. See Cooperative Threat Reduction, FY 2009; National Defense Authorization Act, FY 2009 | | |
| Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006. See United States-India Peaceful Atomic Energy Cooperation Act of 2006 | | |


## I


| | | |
|---|---|---|
| IAEA. See International Atomic Energy Agency | | |
| Immunities. See also Diplomatic Relations Act | | |
| Foreign sovereign immunities | 28 USC | 999 |
| Actions against foreign states | 28 USC Sec 1330 | 999 |
| Counterclaims | 28 USC Sec 1607 | 1005 |
| Default | 28 USC Sec 1608 | 1006 |
| Definitions | 28 USC Sec 1603 | 1000 |
| Exceptions to the immunity from attachment or execution. | 28 USC Sec 1610 | 1007 |
| Exceptions to the jurisdictional immunity of a foreign state. | 28 USC Sec 1605 | 1001 |
| Extent of liability | 28 USC Sec 1606 | 1005 |
| Findings and declaration of purpose | 28 USC Sec 1602 | 1000 |
| Immunity from attachment and execution of property of a foreign state. | 28 USC Sec 1609 | 1007 |
| Immunity of a foreign state from jurisdiction. | 28 USC Sec 1604 | 1000 |
| Service | 28 USC Sec 1608 | 1006 |
| Time to answer | 28 USC Sec 1608 | 1006 |
| Types of property immune from execution. | 28 USC Sec 1611 | 1010 |
| International organizations | | |
| Council of the Organization of American States representatives of member states. | PL 82–486 | 982 |

| | | |
|---|---|---|
| Immunities—Continued | | |
| International organizations—Continued | | |
| Hong Kong Economic and Trade Offices. | PL 105–22 Sec 1 | 986 |
| International Development Law Institute. | PL 102–511 Sec 805 | 985 |
| Mission of the Commission of the European Communities. | PL 92–499 | 983 |
| International Organizations Immunities Act. | PL 79–291 | 973 |
| African Union | PL 79–291 Sec 12 | 980 |
| Conditions | PL 79–291 Sec 9 | 979 |
| Customs duties | PL 79–291 Sec 3 | 976 |
| European Central Bank | PL 79–291 Sec 15 | 981 |
| European Space Agency | PL 79–291 Sec 11 | 979 |
| Foreign government representatives | PL 79–291 Sec 7 | 977 |
| Global Fund to Fight AIDS, Tuberculosis and Malaria. | PL 79–291 Sec 16 | 981 |
| Immunities, exemptions and privileges. | PL 79–291 Sec 2 | 976 |
| International Committee of the Red Cross. | PL 79–291 Sec 13 | 980 |
| International Labor Organization | PL 79–291 Sec 12 | 980 |
| International organizations defined | PL 79–291 Sec 1 | 973 |
| International Union for Conservation of Nature and Natural Resources. | PL 79–291 Sec 14 | 980 |
| Notification | PL 79–291 Sec 8 | 979 |
| Organization of Eastern Caribbean States. | PL 79–291 Sec 11 | 979 |
| Property tax exemptions | PL 79–291 Sec 6 | 977 |
| Tax exemptions | PL 79–291 Sec 5 | 977 |
| United Nations Industrial Development Organization. | PL 79–291 Sec 12 | 980 |
| Liaison Office of the People's Republic of China. | PL 93–22 | 984 |
| Permanent Observer Mission of the Holy See to the United Nations. | PL 109–472 Sec 7 | 987 |
| Implementation of the Convention on the Civil Aspects of International Child Abduction | | |
| Central Authority designation | EO 12648 Sec 1 | 1045 |
| Implementing Recommendations of the 9/11 Commission Act of 2007. | PL 110–53 | 58 |
| | | 178 |
| Weapons of mass destruction proliferation and terrorism prevention | | |
| Assistance to accelerate programs | | |
| Appropriations authorization, 2008. | PL 110–53 Sec 1833 | 60 |
| | | 185 |
| Appropriations authorization, 2008 and future years. | PL 110–53 Sec 1832 | 59 |
| | | 184 |
| Statement of policy | PL 110–53 Sec 1831 | 59 |
| | | 184 |
| Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism | | |
| Composition of | PL 110–53 Sec 1853 | 189 |
| Establishment of | PL 110–53 Sec 1851 | 188 |
| Funding | PL 110–53 Sec 1859 | 192 |
| Nonapplicability of Federal Advisory Committee Act. | PL 110–53 Sec 1856 | 191 |
| Powers of | PL 110–53 Sec 1855 | 190 |

| | | |
|---|---|---|
| Implementing Recommendations of the 9/11 Commission Act of 2007—Continued | | |
| Weapons of mass destruction proliferation and terrorism prevention—Continued | | |
| Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism—Continued | | |
| Purposes of | PL 110–53 Sec 1852 | 188 |
| Report | PL 110–53 Sec 1857 | 192 |
| Responsibilities of | PL 110–53 Sec 1854 | 189 |
| Termination | PL 110–53 Sec 1858 | 192 |
| Definitions | PL 110–53 Sec 1802 | 179 |
| Findings | PL 110–53 Sec 1801 | 58 |
| | | 179 |
| Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism. | PL 110–53 Sec 1841 | 185 |
| Proliferation Security Initiative | | |
| Authority to provide assistance to cooperative countries. | PL 110–53 Sec 1822 | 183 |
| Improvements and authorities | PL 110–53 Sec 1821 | 181 |
| Repeal and modification of assistance limitations. | PL 110–53 Sec 1811 | 58 |
| | | 180 |
| United States-Russia cooperation and coordination, sense of Congress. | PL 110–53 Sec 1842 | 188 |
| Implementing the U.S. Proposal for the Early-Warning System in Sinai. | PL 94–110 | 804 |
| India | | |
| Export of special nuclear material and components. | EO 12055 | 402 |
| | EO 12218 | 401 |
| United States Additional Protocol Implementation Act. | PL 109–401 | 193 |
| Appropriations authorization | PL 109–401 Sec 281 | 205 |
| Authority | PL 109–401 Sec 211 | 196 |
| Complementary access | | |
| Authority requirement | PL 109–401 Sec 221 | 196 |
| Consents and warrants | PL 109–401 Sec 223 | 198 |
| Procedures for | PL 109–401 Sec 222 | 197 |
| Prohibited acts | PL 109–401 Sec 224 | 199 |
| Confidentiality of information | PL 109–401 Sec 231 | 199 |
| Definitions | PL 109–401 Sec 203 | 194 |
| Enforcement | PL 109–401 Sec 243 | 202 |
| Environmental sampling | | |
| National security exclusion application. | PL 109–401 Sec 252 | 202 |
| Notification to Congress of IAEA Board approval. | PL 109–401 Sec 251 | 202 |
| Rule of construction | PL 109–401 Sec 254 | 203 |
| Findings | PL 109–401 Sec 202 | 193 |
| IAEA inspections and visits | PL 109–401 Sec 262 | 204 |
| Penalties | PL 109–401 Sec 242 | 200 |
| Protection of national security information. | PL 109–401 Sec 261 | 203 |
| Recordkeeping violations | PL 109–401 Sec 241 | 200 |
| Reports | | |
| Content of reports on U.S. declarations. | PL 109–401 Sec 273 | 204 |
| Efforts to promote implementation of additional protocols. | PL 109–401 Sec 274 | 205 |
| IAEA notifications | PL 109–401 Sec 275 | 205 |
| Initial U.S. declaration | PL 109–401 Sec 271 | 204 |

India—Continued
United States Additional Protocol Implementation Act—Continued
Reports—Continued
Revisions to initial U.S. declaration. PL 109–401 Sec 272 ..... 204
Severability ..... PL 109–401 Sec 204 ..... 196
United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act. PL 110–369 ..... 477
Additional protocol with the IAEA ... PL 110–369 Sec 103 ..... 479
Agreement approval ..... PL 110–369 Sec 101 ..... 478
Certification requirement ..... PL 110–369 Sec 102(c) ..... 479
Definitions ..... PL 110–369 Sec 2 ..... 477
Policy declarations ..... PL 110–369 Sec 102(a) ..... 478
PL 110–369 Sec 102(b) ..... 478
Procedures regarding subsequent reprocessing arrangement. PL 110–369 Sec 201 ..... 480
Rule of construction ..... PL 110–369 Sec 102(d) ..... 479
Safeguard agreement implementation with the IAEA. PL 110–369 Sec 104 ..... 479
U.S. policy at the Nuclear Suppliers Group. PL 110–369 Sec 204 ..... 480
United States-India Peaceful Atomic Energy Cooperation Act of 2006. PL 109–401 ..... 482
Compliance with nuclear nonproliferation treaty obligations. PL 109–401 Sec 105 ..... 496
Congressional approval ..... PL 109–401 Sec 104 ..... 485
Definitions ..... PL 109–401 Sec 110 ..... 497
Inoperability of determination and waivers. PL 109–401 Sec 106 ..... 496
MTCR adherent status ..... PL 109–401 Sec 107 ..... 496
Policy statements ..... PL 109–401 Sec 103 ..... 484
Scientific cooperative nuclear nonproliferation program. PL 109–401 Sec 109 ..... 497
Sense of Congress ..... PL 109–401 Sec 102 ..... 482
Waiver authority ..... PL 109–401 Sec 104 ..... 485
INF Treaty. See Intermediate-Range Nuclear Forces Treaty
Intelligence Authorization Act, FY 1997. See Combatting Proliferation of Weapons of Mass Destruction Act of 1996
Intercountry Adoption Act of 2000 ..... PL 106–279 ..... 1017
Accreditation or approval
Process ..... PL 106–279 Sec 202 ..... 1023
Requirements ..... PL 106–279 Sec 201 ..... 1022
Secretary of State oversight ..... PL 106–279 Sec 204 ..... 1027
Standards and procedures ..... PL 106–279 Sec 203 ..... 1024
Appropriations authorization ..... PL 106–279 Sec 403 ..... 1032
Children emigrating from the United States. PL 106–279 Sec 303 ..... 1030
Children immigrating to the United States. PL 106–279 Sec 301 ..... 1029
Definitions ..... PL 106–279 Sec 3 ..... 1017
Documents of other countries ..... PL 106–279 Sec 402 ..... 1032
Enforcement ..... PL 106–279 Sec 404 ..... 1033
Fees collection ..... PL 106–279 Sec 403 ..... 1032
Findings and purposes ..... PL 106–279 Sec 2 ..... 1017
No private right of action ..... PL 106–279 Sec 504 ..... 1034
Recognition of adoptions ..... PL 106–279 Sec 501 ..... 1034
Records access ..... PL 106–279 Sec 401 ..... 1031
Relationship to other laws ..... PL 106–279 Sec 503 ..... 1034
Special rules ..... PL 106–279 Sec 502 ..... 1034
Transition rule ..... PL 106–279 Sec 505 ..... 1035
United States Central Authority
Attorney General responsibilities .... PL 106–279 Sec 103 ..... 1021
Designation ..... PL 106–279 Sec 101 ..... 1019
Report requirements ..... PL 106–279 Sec 104 ..... 1021

| | | |
|---|---|---|
| Intercountry Adoption Act of 2000—Continued | | |
| United States Central Authority—Continued | | |
| Secretary of State responsibilities | PL 106–279 Sec 102 | 1019 |
| Intermediate-Range Nuclear Forces Treaty | | |
| On-Site Inspection Agency, establishment and responsibilities of. | PL 87–297 Sec 501 | 24 |
| International agreements. See also North Atlantic Treaty Organization | | |
| Alternative strategic nuclear force for the United States. | PL 100–456 Sec 908 | 697 |
| Arms control agreements implementation. | PL 104–106 Sec 1407 | 641 |
| Arms control negotiations, findings and declarations. | PL 100–180 Sec 904 | 704 |
| Arms control negotiations and U.S. modernization policy, sense of Congress. | PL 101–189 Sec 1011 | 689 |
| Arms control policy implications, report | PL 100–180 Sec 906 | 706 |
| Chairman of the Joint Chiefs of Staff on U.S. non-compliance with strategic arms agreements, report. | PL 99–661 Sec 1003 | 708 |
| Chemical Weapons Convention | | |
| Assistance for facilities subject to inspection. | PL 105–85 Sec 1303 | 616 |
| Compliance with | PL 107–228 Sec 1605 | 236 |
| Implementation of | EO 13128 | 371 |
| Ratification, sense of Congress | PL 104–106 Sec 1406 | 640 |
| U.S. obligations, sense of Congress | PL 105–85 Sec 1307 | 621 |
| Chemical weapons negotiations, sense of Congress. | PL 101–189 Sec 1013 | 690 |
| Compliance with existing strategic offensive arms agreements policy. | PL 99–145 Sec 1001 | 711 |
| Expanding confidence-building measures, sense of Congress. | PL 100–456 Sec 901 | 694 |
| Extradition treaties | | |
| Findings | PL 105–323 Sec 202 | 1036 |
| Interpretation of treaties | PL 105–323 Sec 203 | 1036 |
| Five-year ABM Treaty review, sense of Congress. | PL 100–456 Sec 904 | 695 |
| Highly Enriched Uranium Agreements | | |
| Conversion provisions | EO 13159 | 373 |
| Indefinite extension of nuclear non-proliferation treaty, sense of Congress. | PL 103–337 Sec 1508 | 648 |
| INF Treaty | | |
| On-Site Inspection Agency, establishment and responsibilities of. | PL 87–297 Sec 501 | 24 |
| Krasnoyarsk radar, findings and sense of Congress. | PL 101–189 Sec 1006 | 686 |
| Military consequences of elimination of ballistic missiles, report. | PL 100–180 Sec 905 | 705 |
| North Korea and the Treaty on the Non-Proliferation of Nuclear Weapons. | PL 103–160 Sec 1613 | 663 |
| Nuclear material cooperation | PL 83–703 Sec 123 | 435 |
| Nuclear nonproliferation activities | PL 103–160 Sec 1611 | 659 |
| On-site inspections under arms control agreements. | PL 101–189 Sec 1014 | 691 |
| Peaceful Nuclear Explosions Treaty | | |
| On-Site Inspection Agency responsibilities. | PL 87–297 Sec 501 | 25 |
| SALT II Treaty | | |
| Compliance, sense of Congress | PL 99–661 Sec 1001 | 707 |
| Soviet compliance with arms control agreements, report. | PL 98–525 Sec 1106 | 718 |
| Soviet Union Compliance with Threshold Test Ban Treaty, report. | PL 100–180 Sec 903 | 703 |

| | | |
|---|---|---|
| International agreements—Continued | | |
| START Treaties | | |
| Effect on Trident program, report | PL 101–189 Sec 1001 | 682 |
| Funds use limitation | PL 105–85 Sec 1404 | 121 |
| Modernization | PL 101–510 Sec 1442 | 679 |
| Monitoring issues, report | PL 106–113 Sec 1114 | 33 |
| Ratification, sense of Congress | PL 104–106 Sec 1406 | 640 |
| Report required before agreement, sense of Congress. | PL 100–456 Sec 902 | 695 |
| | PL 101–189 Sec 1003 | 683 |
| Strategic nuclear delivery systems, limitation on retirement or dismantlement. | PL 104–106 Sec 1404 | 638 |
| | PL 104–201 Sec 1302 | 625 |
| | PL 105–85 Sec 1302 | 613 |
| Strategic stability under START III, report. | PL 106–65 Sec 1503 | 597 |
| Verification conducted with regard to mobile ICBMs, report. | PL 101–189 Sec 1002 | 683 |
| Strategic arms reduction talks agreement. | PL 101–510 Sec 1443 | 679 |
| Treaties to prevent nuclear testing policy. | PL 98–525 Sec 1111 | 723 |
| Treaty limitations on weapons capable of threatening military satellites, sense of Congress. | PL 101–189 Sec 1007 | 687 |
| Treaty on Conventional Armed Forces in Europe, sense of Congress. | PL 105–277 Sec 2704 | 819 |
| U.S. pursuit of outstanding arms control compliance, sense of Congress. | PL 98–525 Sec 1110 | 721 |
| Verification of compliance with agreements to limit nuclear testing, report. | PL 101–189 Sec 1010 | 689 |
| Weapons treaty violations, findings and sense of Congress. | PL 104–106 Sec 1405 | 638 |
| International Atomic Energy Agency | | |
| Agreement with the United States for application of safeguards. | EO 13458 | 379 |
| Annual review of projects | PL 107–228 Sec 1343 | 232 |
| Bilateral and multilateral initiatives | PL 103–236 Sec 841 | 332 |
| Environmental sampling, notification to Congress of Board approval. | PL 109–401 Sec 251 | 202 |
| India | | |
| Additional protocol with | PL 110–369 Sec 103 | 479 |
| Safeguard agreement implementation. | PL 110–369 Sec 104 | 479 |
| Inspections and visits, information protection. | PL 109–401 Sec 262 | 204 |
| Internal reforms | PL 103–236 Sec 842 | 333 |
| Nonproliferation and export control assistance | | |
| Budget assessments and voluntary contributions. | PL 107–228 Sec 1305 | 215 |
| Nuclear and radiological security and safety discussions with OECD. | PL 108–136 Sec 3631 | 212 |
| Strengthening nuclear nonproliferation safeguard system. | PL 95–242 Sec 201 | 385 |
| International Atomic Energy Agency Participation Act of 1957. | PL 85–177 | 521 |
| Appointments | PL 85–177 Sec 2 | 521 |
| Appropriations authorization | PL 85–177 Sec 5 | 523 |
| Authority | PL 85–177 Sec 4 | 523 |
| Federal employees | PL 85–177 Sec 6 | 523 |
| Senate advise and consent refusal | PL 85–177 Sec 8 | 524 |
| U.S. participation | PL 85–177 Sec 3 | 522 |
| International Child Abduction Remedies Act. See also Implementation of the Convention on the Civil Aspects of International Child Abduction. | PL 100–300 | 1037 |

| | | |
|---|---|---|
| International Child Abduction Remedies Act—Continued | | |
| Admissibility of documents | PL 100–300 Sec 6 | 1040 |
| Appropriations authorization | PL 100–300 Sec 12 | 1044 |
| Costs and fees | PL 100–300 Sec 8 | 1042 |
| Definitions | PL 100–300 Sec 3 | 1038 |
| Findings and declarations | PL 100–300 Sec 2 | 1037 |
| Information collection, maintenance and dissemination. | PL 100–300 Sec 9 | 1042 |
| Interagency coordinating group | PL 100–300 Sec 10 | 1043 |
| Judicial remedies | PL 100–300 Sec 4 | 1039 |
| Provisional remedies | PL 100–300 Sec 5 | 1040 |
| United States Central Authority | PL 100–300 Sec 7 | 1040 |
| International Committee of the Red Cross | | |
| Immunities, exemptions and privileges | PL 79–291 Sec 13 | 980 |
| International Criminal Court | | |
| American Servicemembers' Protection Act of 2002 | | |
| Authority to free members of the United States Armed Forces detained or imprisoned by. | PL 107–206 Sec 2008 | 790 |
| Prohibition on cooperation | PL 107–206 Sec 2004 | 787 |
| Prohibition on transfer of classified national security and law enforcement information. | PL 107–206 Sec 2006 | 789 |
| International Development Law Institute | | |
| Diplomatic privileges | PL 102–511 Sec 805 | 985 |
| International Labor Organization | | |
| Immunities, exemptions and privileges | PL 79–291 Sec 12 | 980 |
| International Materials Protection, Control and Accounting program | | |
| Appropriations authorization, 2008 | PL 110–53 Sec 1833 | 60 |
| International Narcotics Control Board | | |
| U.S. membership | PL 107–228 Sec 408 | 947 |
| International Nonproliferation Initiative | | |
| Activities assistance provided for | PL 102–511 Sec 509(b) | 156 |
| Assistance for activities | PL 102–511 Sec 509(a) | 155 |
| Assistance forms | PL 102–511 Sec 509(c) | 156 |
| Assistance sources | PL 102–511 Sec 509(d) | 156 |
| Duplicative authorization avoidance | PL 102–511 Sec 509(f) | 157 |
| Report to Congress | PL 102–511 Sec 509(e) | 157 |
| International Nuclear Materials Protection and Cooperation program | | |
| Contributions utilization | PL 109–364 Sec 3114 | 548 |
| International organizations. See also North Atlantic Treaty Organization; Peacekeeping activities; United Nations | | |
| Appropriations limitation on contributions. | PL 92–544 | 966 |
| Hong Kong Economic and Trade Offices | PL 105–22 Sec 1 | 986 |
| International Development Law Institute | | |
| Diplomatic privileges | PL 102–511 Sec 805 | 985 |
| Mission of the Commission of the European Communities | | |
| Diplomatic privileges | PL 92–499 | 983 |
| OAS | | |
| Privileges to representatives of member states. | PL 82–486 | 982 |
| U.S. financial contributions | PL 81–806 Sec 2 | 965 |
| International Organizations Immunities Act | PL 79–291 | 973 |
| African Union | PL 79–291 Sec 12 | 980 |
| Conditions | PL 79–291 Sec 9 | 979 |
| Customs duties | PL 79–291 Sec 3 | 976 |
| European Central Bank | PL 79–291 Sec 15 | 981 |
| European Space Agency | PL 79–291 Sec 11 | 979 |
| Foreign government representatives | PL 79–291 Sec 7 | 977 |

| | | |
|---|---|---|
| International Organizations Immunities Act—Continued | | |
| Global Fund to Fight AIDS, Tuberculosis and Malaria. | PL 79–291 Sec 16 | 981 |
| Immunities, exemptions and privileges | PL 79–291 Sec 2 | 976 |
| International Committee of the Red Cross. | PL 79–291 Sec 13 | 980 |
| International Labor Organization | PL 79–291 Sec 12 | 980 |
| International organizations defined | PL 79–291 Sec 1 | 973 |
| International Union for Conservation of Nature and Natural Resources. | PL 79–291 Sec 14 | 980 |
| Notification | PL 79–291 Sec 8 | 979 |
| Organization of Eastern Caribbean States. | PL 79–291 Sec 11 | 979 |
| Property tax exemptions | PL 79–291 Sec 6 | 977 |
| Tax exemptions | PL 79–291 Sec 5 | 977 |
| United Nations Industrial Development Organization. | PL 79–291 Sec 12 | 980 |
| International Space Station | | |
| Restriction on extraordinary payments | PL 106–178 Sec 6 | 244 |
| International Union for Conservation of Nature and Natural Resources | | |
| Immunities, exemptions and privileges | PL 79–291 Sec 14 | 980 |
| Internationally protected persons | | |
| Protection and Prevention of Crimes Against Internationally Protected Persons. | 18 USC | 988 |
| Conspiracy to murder | 18 USC Sec 1117 | 993 |
| Kidnapping | 18 USC Sec 1201 | 993 |
| Murder or manslaughter | 18 USC Sec 1116 | 991 |
| Property occupied by foreign governments. | 18 USC Sec 970 | 990 |
| Protection of foreign officials and official guests. | 18 USC Sec 112 | 988 |
| Threats and extortion | 18 USC Sec 878 | 990 |
| Iran | | |
| Capability to produce nuclear weapons, report. | PL 110–417 Sec 1234 | 534 |
| Russian proliferation to, report | PL 107–314 Sec 1206 | 569 |
| U.S. policy on nuclear programs, sense of Congress. | PL 109–364 Sec 1214 | 547 |
| Iran, North Korea and Syria Nonproliferation Act. | PL 106–178 | 238 |
| Application of measures to certain foreign persons. | PL 106–178 Sec 3 | 240 |
| Definitions | PL 106–178 Sec 7 | 247 |
| Exemption from measures | PL 106–178 Sec 5 | 242 |
| International Space Station restriction on extraordinary payments. | PL 106–178 Sec 6 | 244 |
| Procedures if measures are not applied | PL 106–178 Sec 4 | 242 |
| Reports | PL 106–178 Sec 2 | 239 |
| Iran-Iraq Arms Non-Proliferation Act of 1992. | PL 102–484 | 344 |
| Application to Iran of certain Iraq sanctions. | PL 102–484 Sec 1603 | 345 |
| Definitions | PL 102–484 Sec 1608 | 347 |
| International fissile material and warhead control | | |
| Development and demonstration program. | PL 102–484 Sec 3153 | 673 |
| Negotiations | PL 102–484 Sec 3151 | 672 |
| Tritium production | PL 102–484 Sec 3154 | 673 |
| Policy | PL 102–484 Sec 1602 | 344 |
| Reporting requirements | PL 102–484 Sec 1607 | 347 |
| Sanctions | | |
| Against foreign countries | PL 102–484 Sec 1605 | 345 |
| Against persons | PL 102–484 Sec 1604 | 345 |
| Waiver | PL 102–484 Sec 1606 | 346 |

| | | |
|---|---|---|
| Iran Nonproliferation Amendments Act of 2005. | PL 109–112 | 206 |
| Findings | PL 109–112 Sec 2 | 206 |
| Iran Nuclear Proliferation Prevention Act of 2002. | PL 107–228 | 232 |
| Annual review of IAEA projects | PL 107–228 Sec 1343 | 232 |
| Reporting requirements | PL 107–228 Sec 1344 | 233 |
| Sense of Congress | PL 107–228 Sec 1345 | 233 |
| Iraq | | |
| Acquisition of advanced weapons, report | PL 108–136 Sec 1204 | 563 |
| Authorization for Use of Military Force Against Iraq Resolution. | PL 102–1 | 770 |
| Authorization for use of United States Armed Forces. | PL 102–1 Sec 2 | 770 |
| Reports | PL 102–1 Sec 3 | 771 |
| Authorization for Use of Military Force Against Iraq Resolution of 2002. | PL 107–243 | 740 |
| Authorization for use of United States Armed Forces. | PL 107–243 Sec 3 | 743 |
| Reports | PL 107–243 Sec 4 | 744 |
| Support for U.S. diplomatic efforts | PL 107–243 Sec 2 | 743 |
| Counterproliferation | | |
| Extension of authority for support of United Nations Special Commission. | PL 105–261 Sec 1531 | 609 |
| Iran-Iraq Arms Non-Proliferation Act of 1992. | PL 102–484 | 344 |
| Application to Iran of certain Iraq sanctions. | PL 102–484 Sec 1603 | 345 |
| Definitions | PL 102–484 Sec 1608 | 347 |
| International fissile material and warhead control | | |
| Development and demonstration program. | PL 102–484 Sec 3153 | 673 |
| Negotiations | PL 102–484 Sec 3151 | 672 |
| Policy | PL 102–484 Sec 1602 | 344 |
| Reporting requirements | PL 102–484 Sec 1607 | 347 |
| Tritium production | PL 102–484 Sec 3154 | 673 |
| Waiver | PL 102–484 Sec 1606 | 346 |
| Sanctions | | |
| Against foreign countries | PL 102–484 Sec 1605 | 345 |
| Against persons | PL 102–484 Sec 1604 | 345 |
| Support of U.N.-sponsored inspection and monitoring of weapons activities. | PL 106–65 Sec 1505 | 598 |
| | PL 106–398 Sec 1201 | 580 |
| | PL 107–107 Sec 1203 | 575 |
| | PL 107–314 Sec 1204 | 568 |
| Israel | | |
| Arms control | | |
| Support of consultations on Arab and Israeli arms control and regional security issues. | PL 106–398 Sec 1202 | 580 |
| Multinational Force and Observers Participation Resolution. | PL 97–132 | 798 |
| Definitions | PL 97–132 Sec 8 | 802 |
| Nonreimbursed costs | PL 97–132 Sec 5 | 800 |
| Participation of U.S. personnel | PL 97–132 Sec 3 | 799 |
| Reports | PL 97–132 Sec 6 | 801 |
| Statement of policy | PL 97–132 Sec 2 | 798 |
| Statements of congressional intent | PL 97–132 Sec 7 | 802 |
| U.S. contributions to costs | PL 97–132 Sec 4 | 799 |

## J

John Warner National Defense Authorization Act, FY 2007. See Cooperative Threat Reduction, FY 2007; National Defense Authorization Act, FY 2007

## K

Key Verification Assets Fund
Appropriations authorization ..... PL 106–113 Sec 1111 ..... 31
PL 107–228 Sec 1102 ..... 28
Korea, Republic of
Participation of multinational partners in the United Nations Command, report. PL 109–364 Sec 1212 ..... 546
Krasnoyarsk radar
Findings and sense of Congress ..... PL 100–180 Sec 902 ..... 702
PL 101–189 Sec 1006 ..... 686
Kuwait
Arms sales restriction ..... PL 102–229 Sec 104 ..... 173

## L

Landmines
Export moratorium ..... PL 102–484 Sec 1365 ..... 669
International clearing efforts in refugee situations, report. PL 102–484 Sec 1364 ..... 669
Moratorium on use by Armed Forces, report. PL 104–106 Sec 1402 ..... 637
Latvia
NATO membership, sense of Congress ... PL 104–208 Sec 605 ..... 826
Law enforcement
Prohibition on transfer of information to the International Criminal Court. PL 107–206 Sec 2006 ..... 789
Lebanon
Multinational Force in Lebanon Resolution. PL 98–119 ..... 776
Agreement between the United States and Lebanon, Sept. 25, 1982. ..... 780
Authorization for continued participation of United States Armed Forces. PL 98–119 Sec 3 ..... 777
Congressional priority procedures for amendments. PL 98–119 Sec 8 ..... 778
Duration of authorization for U.S. participation. PL 98–119 Sec 6 ..... 778
Findings and purpose ..... PL 98–119 Sec 2 ..... 776
Interpretation of resolution ..... PL 98–119 Sec 7 ..... 778
Reports ..... PL 98–119 Sec 4 ..... 777
Statements of policy ..... PL 98–119 Sec 5 ..... 777
Liaison Office of the People's Republic of China
Diplomatic privileges ..... PL 93–22 ..... 984
Lithuania
NATO membership, sense of Congress ... PL 104–208 Sec 605 ..... 826

## M

Macedonia
Designation as eligible to receive NATO assistance. PL 110–17 Sec 4 ..... 814
Middle East
Arms control ..... EO 12851 Sec 3 ..... 363

| | | |
|---|---|---|
| Middle East—Continued | | |
| Arms control—Continued | | |
| Support of consultations on Arab and Israeli arms control and regional security issues. | PL 106–398 Sec 1202 | 580 |
| Multinational Force and Observers Participation Resolution. | PL 97–132 | 798 |
| Definitions | PL 97–132 Sec 8 | 802 |
| Nonreimbursed costs | PL 97–132 Sec 5 | 800 |
| Participation of U.S. personnel | PL 97–132 Sec 3 | 799 |
| Reports | PL 97–132 Sec 6 | 801 |
| Statement of policy | PL 97–132 Sec 2 | 798 |
| Statements of congressional intent | PL 97–132 Sec 7 | 802 |
| U.S. contributions to costs | PL 97–132 Sec 4 | 799 |
| Multinational Force and Observers reports | | |
| Delegation of functions | EO 12361 Sec 1 | 803 |
| Interagency coordination | EO 12361 Sec 2 | 803 |
| Resolution to promote peace and stability in the Middle East. | PL 85–7 | 796 |
| Sinai Early-Warning System, implementing the U.S. proposal. | PL 94–110 | 804 |
| U.N. peacekeeping forces, payments authorization. | PL 94–37 | 969 |
| Military activities | | |
| National commitment | Sen Res 85, June 25, 1969 | 808 |
| Military Commissions Act of 2006 | PL 109–366 | 747 |
| Annual report | PL 109–366 Sec 3 | 750 |
| Authorities | PL 109–366 Sec 3 | 748 |
| Construction of provisions | PL 109–366 Sec 3 | 748 |
| Crimes triable by commissions | PL 109–366 Sec 3 | 750 |
| Definitions | PL 109–366 Sec 3 | 747 |
| Geneva Conventions | PL 109–366 Sec 3 | 749 |
| Implementation of treaty obligations | PL 109–366 Sec 6 | 756 |
| Inapplicability of provisions | PL 109–366 Sec 3 | 749 |
| Jurisdiction of commissions | PL 109–366 Sec 3 | 749 |
| Persons subject to commissions | PL 109–366 Sec 3 | 749 |
| Purpose | PL 109–366 Sec 3 | 748 |
| Status of commissions | PL 109–366 Sec 3 | 749 |
| Treatment of rulings and precedents | PL 109–366 Sec 3 | 749 |
| Treaty obligations not establishing grounds for certain claims. | PL 109–366 Sec 5 | 756 |
| Military personnel (United States). See American Servicemembers' Protection Act of 2002 | | |
| Missile Technology Control Regime | | |
| Findings | PL 100–180 Sec 901 | 701 |
| India | | |
| Adherent status | PL 109–401 Sec 107 | 496 |
| People's Republic of China adherence | PL 106–65 Sec 1401 | 587 |
| Policy | PL 101–510 Sec 1701 | 680 |
| Mission of the Commission of the European Communities | | |
| Diplomatic privileges | PL 92–499 | 983 |
| MTCR. See Missile Technology Control Regime | | |
| Multinational Force and Observers Participation Resolution. | PL 97–132 | 798 |
| Definitions | PL 97–132 Sec 8 | 802 |
| Nonreimbursed costs | PL 97–132 Sec 5 | 800 |
| Participation of U.S. personnel | PL 97–132 Sec 3 | 799 |
| Reports | PL 97–132 Sec 6 | 801 |
| Statement of policy | PL 97–132 Sec 2 | 798 |
| Statements of congressional intent | PL 97–132 Sec 7 | 802 |
| U.S. contributions to costs | PL 97–132 Sec 4 | 799 |
| Multinational Force and Observers reports | | |
| Delegation of functions | EO 12361 Sec 1 | 803 |
| Interagency coordination | EO 12361 Sec 2 | 803 |

| | | |
|---|---|---|
| Multinational Force in Lebanon Resolution .. | PL 98–119 | 776 |
| Agreement between the United States and Lebanon, Sept. 25, 1982. | | 780 |
| Authorization for continued participation of United States Armed Forces. | PL 98–119 Sec 3 | 777 |
| Congressional priority procedures for amendments. | PL 98–119 Sec 8 | 778 |
| Duration of authorization for U.S. participation. | PL 98–119 Sec 6 | 778 |
| Findings and purpose | PL 98–119 Sec 2 | 776 |
| Interpretation of resolution | PL 98–119 Sec 7 | 778 |
| Reports | PL 98–119 Sec 4 | 777 |
| Statements of policy | PL 98–119 Sec 5 | 777 |

**N**

| | | |
|---|---|---|
| Nance and Donovan Foreign Relations Authorization Act, FY 2000 and 2001. See Arms Control and Nonproliferation Act of 1999; National Security and Corporate Fairness under the Biological Weapons Convention Act; Proliferation Prevention Enhancement Act of 1999; United Nations Reform Act of 1999 | | |
| Narcotics. See Drug control | | |
| National Academy of Sciences | | |
| Biological weapons proliferation prevention study. | PL 109–364 Sec 1304 | 63 |
| | PL 110–181 Sec 1308 | 56 |
| Cooperative threat reduction study | PL 110–181 Sec 1306(b) | 55 |
| National commitment | Sen Res 85, June 25, 1969 | 808 |
| National Coordinator for Nonproliferation Matters | | |
| Designation of | PL 104–201 Sec 1441 | 319 |
| National Defense Authorization Act, FY 1988 and 1989. | PL 100–180 | 701 |
| Arms control negotiations, findings and declarations. | PL 100–180 Sec 904 | 704 |
| Arms control policy implications, report | PL 100–180 Sec 906 | 706 |
| Krasnoyarsk radar, findings and sense of Congress. | PL 100–180 Sec 902 | 702 |
| Military consequences of elimination of ballistic missiles, report. | PL 100–180 Sec 905 | 705 |
| MTCR | PL 100–180 Sec 901 | 701 |
| Nuclear risk reduction centers support .. | PL 100–180 Sec 907 | 706 |
| Soviet Union compliance with Threshold Test Ban Treaty, report. | PL 100–180 Sec 903 | 703 |
| National Defense Authorization Act, FY 1989. | PL 100–456 | 694 |
| Alternative strategic nuclear force for the United States under potential START Treaty. | PL 100–456 Sec 908 | 697 |
| Congressional role in arms control and defense policies, sense of Congress. | PL 100–456 Sec 903 | 695 |
| Expanding confidence-building measures, sense of Congress. | PL 100–456 Sec 901 | 694 |
| Five-year ABM Treaty review, sense of Congress. | PL 100–456 Sec 904 | 695 |
| On-site inspection agency | PL 100–456 Sec 909 | 698 |
| START talks, sense of Congress | PL 100–456 Sec 902 | 695 |
| Verification policy and research and development activities coordination. | PL 100–456 Sec 910 | 699 |
| National Defense Authorization Act, FY 1990 and 1991. | PL 101–189 | 682 |
| Accidental launch protection, sense of Congress. | PL 101–189 Sec 1005 | 685 |

| | | |
|---|---|---|
| National Defense Authorization Act, FY 1990 and 1991—Continued | | |
| Arms control negotiations and U.S. modernization policy, sense of Congress. | PL 101–189 Sec 1011 | 689 |
| Ballistic missile defense systems, capabilities of United States and Soviet Union to produce and deploy, report. | PL 101–189 Sec 1004 | 684 |
| Chemical weapons negotiations, sense of Congress. | PL 101–189 Sec 1013 | 690 |
| Krasnoyarsk radar, findings and sense of Congress. | PL 101–189 Sec 1006 | 686 |
| Negotiations with the Soviet Union regarding limitations on anti-satellite capabilities, report. | PL 101–189 Sec 1009 | 688 |
| On-site inspections under arms control agreements. | PL 101–189 Sec 1014 | 691 |
| Satellite survivability, report | PL 101–189 Sec 1008 | 687 |
| Space nuclear reactors effect on gamma-ray astronomy missions, report. | PL 101–189 Sec 1012 | 690 |
| START talks, sense of Congress | PL 101–189 Sec 1003 | 683 |
| Strategic arms reduction agreement effect on Trident program, report. | PL 101–189 Sec 1001 | 682 |
| Treaty limitations on weapons capable of threatening military satellites, sense of Congress. | PL 101–189 Sec 1007 | 687 |
| Verification conducted with regard to mobile ICBMs under START agreement, report. | PL 101–189 Sec 1002 | 683 |
| Verification of compliance with agreements to limit nuclear testing, report. | PL 101–189 Sec 1010 | 689 |
| National Defense Authorization Act, FY 1991. | PL 101–510 | 677 |
| Missile technology control policy | PL 101–510 Sec 1701 | 680 |
| Nuclear risk reduction measures, sense of Congress. | PL 101–510 Sec 1441 | 677 |
| START agreement | PL 101–510 Sec 1443 | 679 |
| START and strategic modernization | PL 101–510 Sec 1442 | 679 |
| National Defense Authorization Act, FY 1992 and 1993. | PL 102–190 | 674 |
| Nuclear testing and test ban readiness program negotiation resumption, report. | PL 102–190 Sec 3140 | 675 |
| Nuclear weapons, report | PL 102–190 Sec 3142 | 676 |
| Redeployment of Minuteman III ICBMs limitations. | PL 102–190 Sec 153 | 674 |
| Warhead dismantlement and material disposal. | PL 102–190 Sec 3141 | 675 |
| National Defense Authorization Act, FY 1993. | PL 102–484 | 666 |
| Former Soviet Union and Eastern Europe nuclear weapons reduction. | PL 102–484 Sec 1321 | 666 |
| International fissile material and warhead control | | |
| Development and demonstration program. | PL 102–484 Sec 3153 | 673 |
| Negotiations | PL 102–484 Sec 3151 | 672 |
| Tritium production | PL 102–484 Sec 3154 | 673 |
| International mine clearing efforts in refugee situations, report. | PL 102–484 Sec 1364 | 669 |
| Landmine export moratorium | PL 102–484 Sec 1365 | 669 |
| National Defense Authorization Act, FY 1994. | PL 103–160 | 651 |
| Counterproliferation Program Review Committee establishment. | PL 103–160 Sec 1605 | 655 |
| Definitions | PL 103–160 Sec 1607 | 659 |
| Global proliferation of strategic and advanced conventional military weapons, equipment and technology study. | PL 103–160 Sec 1601 | 651 |

| | | |
|---|---|---|
| National Defense Authorization Act, FY 1994—Continued | | |
| International nonproliferation activities | | |
| Assistance to Russia for construction of plutonium storage facility. | PL 103–160 Sec 1612 | 662 |
| North Korea and the Treaty on the Non-Proliferation of Nuclear Weapons. | PL 103–160 Sec 1613 | 663 |
| Nuclear nonproliferation | PL 103–160 Sec 1611 | 659 |
| Proliferation of space launch vehicle technologies, sense of Congress. | PL 103–160 Sec 1614 | 664 |
| Nonproliferation and counterproliferation activities and programs, report. | PL 103–160 Sec 1606 | 658 |
| U.S. capabilities to prevent and counter weapons proliferation, sense of Congress. | PL 103–160 Sec 1604 | 654 |
| U.S. counterproliferation policy studies | PL 103–160 Sec 1603 | 653 |
| National Defense Authorization Act, FY 1995. | PL 103–337 | 135 |
| | | 644 |
| Counterproliferation activities and programs, reports. | PL 103–337 Sec 1503 | 644 |
| Counterproliferation activities appropriations authorization. | PL 103–337 Sec 1504 | 646 |
| Indefinite extension of Nuclear Non-Proliferation Treaty, sense of Congress. | PL 103–337 Sec 1508 | 648 |
| Nuclear weapons testing limitations negotiation. | PL 103–337 Sec 1509 | 649 |
| Proliferation of foreign military satellites, funds limitation related to submission of report. | PL 103–337 Sec 1506 | 648 |
| | PL 103–337 Sec 1507 | 648 |
| States of the former Soviet Union | | |
| Funding limitations | PL 103–337 Sec 1206 | 136 |
| Nuclear arsenal dismantlement, sense of Congress. | PL 103–337 Sec 1209 | 140 |
| Offensive biological warfare program, report. | PL 103–337 Sec 1207 | 137 |
| Program coordination | PL 103–337 Sec 1208 | 140 |
| Programs | PL 103–337 Sec 1201 | 136 |
| Weapons of mass destruction, control and accountability of materials, report. | PL 103–337 Sec 1204 | 136 |
| National Defense Authorization Act, FY 1996. | PL 104–106 | 129 |
| | | 637 |
| Arms control agreements implementation. | PL 104–106 Sec 1407 | 641 |
| Chemical Weapons Convention and START II Treaty ratification, sense of Congress. | PL 104–106 Sec 1406 | 640 |
| Moratorium on antipersonnel landmines use by Armed Forces, report. | PL 104–106 Sec 1402 | 637 |
| States of the former Soviet Union | | |
| Chemical weapons destruction facility funds use limitation. | PL 104–106 Sec 1209 | 134 |
| Funding allocations | PL 104–106 Sec 1202 | 130 |
| Funds obligation, prior notice to Congress requirement. | PL 104–106 Sec 1205 | 132 |
| Nuclear weapons scientists, limitation on assistance. | PL 104–106 Sec 1207 | 133 |
| Offensive biological warfare program funds limitation. | PL 104–106 Sec 1208 | 133 |
| Peacekeeping activities funds use prohibition. | PL 104–106 Sec 1203 | 132 |
| Specification of programs | PL 104–106 Sec 1201 | 130 |
| Weapons destruction assistance authority. | PL 104–106 Sec 1204 | 132 |

| | | |
|---|---|---|
| National Defense Authorization Act, FY 1996—Continued | | |
| Strategic nuclear delivery systems, limitation on retirement or dismantlement. | PL 104–106 Sec 1404 | 638 |
| Treaty violations, findings and sense of Congress. | PL 104–106 Sec 1405 | 638 |
| National Defense Authorization Act, FY 1997. | PL 104–201 | 124 |
| | | 625 |
| Commission to Assess the Ballistic Missile Threat to the United States | | |
| Administrative provisions | PL 104–201 Sec 1327 | 636 |
| Duties | PL 104–201 Sec 1322 | 634 |
| Establishment of | PL 104–201 Sec 1321 | 634 |
| Funding | PL 104–201 Sec 1328 | 636 |
| Personnel matters | PL 104–201 Sec 1326 | 635 |
| Powers | PL 104–201 Sec 1324 | 635 |
| Procedures | PL 104–201 Sec 1325 | 635 |
| Report | PL 104–201 Sec 1323 | 635 |
| Termination | PL 104–201 Sec 1329 | 636 |
| Export controls, sense of Congress | PL 104–201 Sec 1308 | 631 |
| Fissile material security assistance to other countries, sense of Congress. | PL 104–201 Sec 1310 | 632 |
| National Intelligence Estimate 95–19, review by Director of Central Intelligence. | PL 104–201 Sec 1311 | 633 |
| Nuclear proliferation activities, strengthening sanctions against. | PL 104–201 Sec 1303(b) | 627 |
| People's Republic of China | | |
| Joint Defense Conversion Commission with United States. | PL 104–201 Sec 1307 | 631 |
| Military capabilities, report | PL 104–201 Sec 1305 | 627 |
| Weapons proliferation and policies, report. | PL 104–201 Sec 1306 | 628 |
| States of the former Soviet Union | | |
| Funding allocations | PL 104–201 Sec 1502 | 126 |
| Funds availability | PL 104–201 Sec 1505 | 128 |
| Funds use limitation until report submission. | PL 104–201 Sec 1504 | 127 |
| Funds use prohibition | PL 104–201 Sec 1503 | 127 |
| Specification of programs | PL 104–201 Sec 1501 | 125 |
| Strategic nuclear delivery systems, limitation on retirement or dismantlement. | PL 104–201 Sec 1302 | 625 |
| National Defense Authorization Act, FY 1998. | PL 105–85 | 118 |
| | | 612 |
| Chemical Weapons Convention, assistance for facilities subject to inspection. | PL 105–85 Sec 1303 | 616 |
| High-priority counterproliferation programs, transfers of authorizations. | PL 105–85 Sec 1304 | 617 |
| Moratorium on antipersonnel landmines use by Armed Forces, report. | PL 105–85 Sec 1309 | 622 |
| Russian strategic missile detargeting, report. | PL 105–85 Sec 1301 | 612 |
| States of the former Soviet Union | | |
| Funding allocations | PL 105–85 Sec 1402 | 119 |
| Funds use limitation | | |
| Chemical weapons destruction | PL 105–85 Sec 1406 | 121 |
| Chemical weapons destruction facility. | PL 105–85 Sec 1405 | 121 |
| Fissile material storage facility | PL 105–85 Sec 1407 | 122 |
| START II Treaty | PL 105–85 Sec 1404 | 121 |
| Weapons storage security | PL 105–85 Sec 1408 | 122 |
| Funds use prohibition | PL 105–85 Sec 1403 | 120 |
| Payment of taxes, duties, and other assessments on assistance, report. | PL 105–85 Sec 1409 | 123 |
| Specification of programs and funds | PL 105–85 Sec 1401 | 119 |

| | | |
|---|---|---|
| National Defense Authorization Act, FY 1998—Continued | | |
| Strategic nuclear delivery systems, limitation on retirement or dismantlement. | PL 105–85 Sec 1302 | 613 |
| U.S. nuclear weapons stockpile safety, security and reliability. | PL 105–85 Sec 1305 | 618 |
| U.S. obligations under Chemical Weapons Convention and environmental laws, sense of Congress. | PL 105–85 Sec 1307 | 621 |
| National Defense Authorization Act, FY 1999. | PL 105–261 | 110 |
| | | 599 |
| Arms control developments, transmission of reports. | PL 105–261 Sec 1502 | 599 |
| Counterproliferation | | |
| Extension of authority for support of United Nations Special Commission on Iraq. | PL 105–261 Sec 1531(a) | 609 |
| Nuclear tests in South Asia, sense of Congress. | PL 105–261 Sec 1532 | 609 |
| Response to increased missile threat in Asia-Pacific region, report. | PL 105–261 Sec 1533 | 610 |
| Emergency communications capabilities between United States and Russia, report. | PL 105–261 Sec 1503 | 600 |
| Export controls | | |
| Department of Defense activities authority. | PL 105–261 Sec 1521 | 607 |
| Deputy Under Secretary of Defense for Technology Security Policy. | PL 105–261 Sec 1521 | 607 |
| Nuclear export reporting requirement. | PL 105–261 Sec 1523 | 608 |
| Release of information by Department of Commerce to other agencies. | PL 105–261 Sec 1522 | 608 |
| Russian nonstrategic nuclear weapons | PL 105–261 Sec 1504 | 600 |
| Satellite export controls | | |
| Certification of missile equipment or technology to China. | PL 105–261 Sec 1512 | 602 |
| National security controls on licensing. | PL 105–261 Sec 1514 | 603 |
| People's Republic of China launching, report. | PL 105–261 Sec 1515 | 605 |
| Related items defined | PL 105–261 Sec 1516 | 606 |
| Sense of Congress | PL 105–261 Sec 1511 | 601 |
| United States Munitions List | PL 105–261 Sec 1513 | 602 |
| States of the former Soviet Union | | |
| Appropriations request summary submission requirement. | PL 105–261 Sec 1307 | 115 |
| Biological weapons programs in Russia, report. | PL 105–261 Sec 1308 | 116 |
| Cooperative counter proliferation program. | PL 105–261 Sec 1306 | 114 |
| Funding allocations | PL 105–261 Sec 1302 | 111 |
| Funds use limitation | | |
| Biological weapons proliferation prevention. | PL 105–261 Sec 1305 | 113 |
| Chemical weapons destruction | PL 105–261 Sec 1304 | 112 |
| Funds use prohibition | PL 105–261 Sec 1303 | 112 |
| Specification of programs and funds | PL 105–261 Sec 1301 | 111 |
| Weapons of mass destruction programs, report on individuals with expertise. | PL 105–261 Sec 1309 | 117 |
| National Defense Authorization Act, FY 2000. | PL 106–65 | 104 |
| | | 587 |
| Enhanced multilateral export controls | PL 106–65 Sec 1408 | 592 |

| | | |
|---|---|---|
| National Defense Authorization Act, FY 2000—Continued | | |
| Enhancement of Defense Threat Reduction Agency activities. | PL 106–65 Sec 1409 | 592 |
| Export control violations by satellite manufacturers. | PL 106–65 Sec 1412 | 595 |
| Export license functions resources | PL 106–65 Sec 1403 | 589 |
| Exporting high-performance computers to People's Republic of China, report. | PL 106–65 Sec 1406 | 591 |
| Foreign launch security violations, report. | PL 106–65 Sec 1405 | 591 |
| High-performance computers, end-use verification for use by People's Republic of China. | PL 106–65 Sec 1407 | 591 |
| Licensing decisions for commercial satellite launch, timely notification by the Department of State. | PL 106–65 Sec 1410 | 594 |
| People's Republic of China adherence to MTCR. | PL 106–65 Sec 1401 | 587 |
| Satellite export licensing | PL 106–65 Sec 1404 | 590 |
| Satellite license applications, enhanced intelligence consultation. | PL 106–65 Sec 1411 | 594 |
| States of the former Soviet Union | | |
| Expanded Threat Reduction Initiative, report. | PL 106–65 Sec 1309 | 108 |
| Funding allocations | PL 106–65 Sec 1302 | 105 |
| Funds use limitation | | |
| Fissile material storage facility | PL 106–65 Sec 1304 | 107 |
| Until certification submission | PL 106–65 Sec 1310 | 108 |
| Until report submission | PL 106–65 Sec 1306 | 107 |
| Funds use prohibition | PL 106–65 Sec 1303 | 106 |
| Report submission requirement | PL 106–65 Sec 1308 | 108 |
| Russian nonstrategic nuclear arms, sense of Congress. | PL 106–65 Sec 1312 | 109 |
| Specification of programs and funds | PL 106–65 Sec 1301 | 105 |
| Strategic arms reductions, sense of Congress. | PL 106–65 Sec 1502 | 596 |
| Strategic stability under START III, report. | PL 106–65 Sec 1503 | 597 |
| Support of U.N.-sponsored inspection and monitoring of Iraqi weapons activities. | PL 106–65 Sec 1505 | 598 |
| Technology transmitted to People's Republic of China, report. | PL 106–65 Sec 1405 | 591 |
| Transfers of militarily sensitive technology to countries of concern, report. | PL 106–65 Sec 1402 | 588 |
| National Defense Authorization Act, FY 2001. | PL 106–398 | 94 |
| | | 580 |
| Coordination of nonproliferation programs, sense of Congress. | PL 106–398 Sec 3174 | 586 |
| Department of Energy nonproliferation monitoring, report. | PL 106–398 Sec 3173 | 585 |
| Nuclear Cities Initiative | PL 106–398 Sec 3172 | 582 |
| Nuclear Materials Protection, Control and Accounting Program status, report. | PL 106–398 Sec 3171 | 581 |
| States of the former Soviet Union | | |
| Activities and assistance, reports | PL 106–398 Sec 1308 | 98 |
| Audits, report | PL 106–398 Sec 1311 | 102 |
| Chemical weapons elimination | PL 106–398 Sec 1309 | 101 |
| Funding allocations | PL 106–398 Sec 1302 | 95 |
| Funds use limitation | | |
| Construction of fossil fuel energy plants, report. | PL 106–398 Sec 1307 | 97 |
| Elimination of conventional weapons. | PL 106–398 Sec 1303 | 96 |

National Defense Authorization Act, FY 2001—Continued
States of the former Soviet Union—Continued
Funds use limitation—Continued
Elimination of Weapons Grade Plutonium Program. PL 106–398 Sec 1310 ..... 102
Fissile material storage facility PL 106–398 Sec 1304 ..... 97
Warhead dismantlement processing. PL 106–398 Sec 1305 ..... 97
Nuclear weapons storage sites agreement. PL 106–398 Sec 1306 ..... 97
Specification of programs and funds PL 106–398 Sec 1301 ..... 95
Support of consultations on Arab and Israeli arms control and regional security issues. PL 106–398 Sec 1202 ..... 580
Support of U.N.-sponsored inspection and monitoring of Iraqi weapons activities. PL 106–398 Sec 1201(a) ..... 580
National Defense Authorization Act, FY 2002. PL 107–107 ..... 89
..... 574
Joint Data Exchange Center in Moscow funding limitation. PL 107–107 Sec 1202 ..... 574
Nuclear Cities Initiative ..... PL 107–107 Sec 3132 ..... 578
Nuclear Cities Initiative program and Initiatives for Proliferation Prevention program consolidation. PL 107–107 Sec 3131 ..... 578
Securing nuclear weapons, material and expertise of the States of the former Soviet Union. PL 107–107 Sec 1205 ..... 575
States of the former Soviet Union
Funding allocations ..... PL 107–107 Sec 1302 ..... 90
Funds use limitation
Construction activities ..... PL 107–107 Sec 1306 ..... 92
Fissile material storage facility PL 107–107 Sec 1305 ..... 92
Until report submission ..... PL 107–107 Sec 1303 ..... 92
Revenue use requirement ..... PL 107–107 Sec 1304 ..... 92
Specification of programs and funds PL 107–107 Sec 1301 ..... 90
Support of U.N.-sponsored inspection and monitoring of Iraqi weapons activities. PL 107–107 Sec 1203 ..... 575
National Defense Authorization Act, FY 2003. PL 107–314 ..... 81
..... 568
Accelerated return of weapons-usable nuclear materials. PL 107–314 Sec 3160 ..... 572
Department of Energy programs
Elimination of weapons grade plutonium production in Russia. PL 107–314 Sec 3151 ..... 86
Export control programs ..... PL 107–314 Sec 3159 ..... 572
International Materials Protection, Control and Accounting Program of the Department of Energy. PL 107–314 Sec 3156 ..... 571
International security for nuclear materials and operations. PL 107–314 Sec 3158 ..... 571
Russian proliferation to Iran and other countries of concern, report. PL 107–314 Sec 1206 ..... 569
States of the former Soviet Union
Funding allocations ..... PL 107–314 Sec 1302 ..... 82
Funds use limitation
Fissile material storage facility PL 107–314 Sec 1305 ..... 84
Until report submission ..... PL 107–314 Sec 1303 ..... 84
Limited waiver of restrictions on use of funds. PL 107–314 Sec 1306 ..... 84
Specification of programs and funds PL 107–314 Sec 1301 ..... 82

| | | |
|---|---|---|
| National Defense Authorization Act, FY 2003—Continued | | |
| Support of U.N.-sponsored inspection and monitoring of Iraqi weapons activities. | PL 107–314 Sec 1204 | 568 |
| National Defense Authorization Act, FY 2004. | PL 108–136 | 72 |
| | | 562 |
| International nuclear materials protection and cooperation program funds use outside the former Soviet Union. | PL 108–136 Sec 3124 | 565 |
| Iraq acquisition of advanced weapons, report. | PL 108–136 Sec 1204 | 563 |
| Nuclear security initiative | | |
| Management assessment of threat reduction and nonproliferation programs. | PL 108–136 Sec 3611 | 79 |
| On-site managers | PL 108–136 Sec 3125 | 566 |
| Reduction of excessive unobligated or unexpended balances for defense nuclear nonproliferation activities, report. | PL 108–136 Sec 3122 | 564 |
| States of the former Soviet Union | | |
| Biological research restrictions | PL 108–136 Sec 1304 | 75 |
| Certification on use of facilities | PL 108–136 Sec 1307 | 77 |
| Chemical weapons destruction facility in Russia funding limitation waiver. | PL 108–136 Sec 1306 | 77 |
| Funding allocations | PL 108–136 Sec 1302 | 73 |
| Funds use authority | PL 108–136 Sec 1308 | 78 |
| On-site manager requirements | PL 108–136 Sec 1305 | 76 |
| Permit requirements | PL 108–136 Sec 1303 | 74 |
| Specification of programs and funds | PL 108–136 Sec 1301 | 73 |
| Strategic nuclear warhead dismantling, report. | PL 108–136 Sec 1033 | 562 |
| Weapons-grade uranium and plutonium of the former Soviet Union, study and report. | PL 108–136 Sec 3123 | 564 |
| National Defense Authorization Act, FY 2005. | PL 108–375 | 69 |
| | | 553 |
| Collaborative measures to reduce the risks of a Russian nuclear weapons launch, report. | PL 108–375 Sec 1214 | 555 |
| Defense international counterproliferation programs. | PL 108–375 Sec 1211 | 553 |
| Global partnership against spread of weapons of mass destruction, sense of Congress. | PL 108–375 Sec 1213 | 554 |
| Nonproliferation of ballistic missiles, policy and sense of Congress. | PL 108–375 Sec 1212 | 553 |
| Nuclear nonproliferation fellowships for United States and Russian Federation scientists. | PL 108–375 Sec 3134 | 560 |
| Removal or security of fissile materials, radiological materials and equipment at vulnerable sites. | PL 108–375 Sec 3132 | 555 |
| Silk Road Initiative | PL 108–375 Sec 3133 | 559 |
| States of the former Soviet Union | | |
| Funding allocations | PL 108–375 Sec 1302 | 70 |
| Specification of programs and funds | PL 108–375 Sec 1301 | 70 |
| National Defense Authorization Act, FY 2006. | PL 109–163 | 65 |
| | | 550 |
| Nonproliferation provisions | | |
| Comprehensive inventory of Russian nonstrategic nuclear weapons, report. | PL 109–163 Sec 3115 | 551 |

| | | |
|---|---|---|
| National Defense Authorization Act, FY 2006—Continued | | |
| Nonproliferation provisions—Continued | | |
| Nonstrategic nuclear weapons, report. | PL 109–163 Sec 1212 | 551 |
| Prohibition on procurements from Communist Chinese military companies. | PL 109–163 Sec 1211 | 550 |
| States of the former Soviet Union | | |
| Elimination of impediments to programs, report. | PL 109–163 Sec 1304 | 67 |
| Funding allocations | PL 109–163 Sec 1302 | 66 |
| Specification of programs and funds | PL 109–163 Sec 1301 | 66 |
| National Defense Authorization Act, FY 2007. | PL 109–364 | 61 |
| | | 544 |
| Destruction of U.S. chemical weapons stockpile, sense of Congress. | PL 109–364 Sec 921 | 544 |
| International Nuclear Materials Protection and Cooperation program contributions utilization. | PL 109–364 Sec 3114 | 548 |
| Iran, United States policy on nuclear programs, sense of Congress. | PL 109–364 Sec 1214 | 547 |
| North Korea nonproliferation policy | PL 109–364 Sec 1211 | 545 |
| Republic of Korea, participation of multinational partners in the United Nations Command, report. | PL 109–364 Sec 1212 | 546 |
| Russian Plutonium Disposition program contributions utilization. | PL 109–364 Sec 3114 | 548 |
| States of the former Soviet Union | | |
| Biological weapons proliferation prevention, National Academy of Sciences study. | PL 109–364 Sec 1304 | 63 |
| Funding allocations | PL 109–364 Sec 1302 | 62 |
| Specification of programs and funds | PL 109–364 Sec 1301 | 62 |
| National Defense Authorization Act, FY 2008. | PL 110–181 | 51 |
| | | 538 |
| Cooperative threat reduction with States of the former Soviet Union | | |
| Funding allocations | PL 110–181 Sec 1302 | 52 |
| New initiatives | | |
| Funding | PL 110–181 Sec 1306(d) | 55 |
| Restrictions on assistance repeal | PL 110–181 Sec 1304 | 53 |
| Specification of programs and funds | PL 110–181 Sec 1301 | 52 |
| Fissile materials disposition program, limitation on funds availability. | PL 110–181 Sec 3114 | 539 |
| Nuclear non-proliferation policy, sense of Congress. | PL 110–181 Sec 3126 | 539 |
| Nuclear terrorism prevention | | |
| Annual report | PL 110–181 Sec 3134 | 542 |
| Definitions | PL 110–181 Sec 3131 | 540 |
| Minimum security standard for nuclear weapons and formula quantities of strategic special nuclear material. | PL 110–181 Sec 3133 | 541 |
| Sense of Congress | PL 110–181 Sec 3132 | 541 |
| Reliable replacement warhead program, sense of Congress. | PL 110–181 Sec 3126 | 539 |
| States of the former Soviet Union | | |
| Biological weapons proliferation prevention, National Academy of Sciences study. | PL 110–181 Sec 1308 | 56 |
| Chemical weapons destruction at Shchuch'ye, Russia, report. | PL 110–181 Sec 1307 | 55 |
| New initiatives | | |
| National Academy of Sciences study. | PL 110–181 Sec 1306(b) | 55 |

| | | |
|---|---|---|
| National Defense Authorization Act, FY 2008—Continued | | |
| States of the former Soviet Union—Continued | | |
| New initiatives—Continued | | |
| Secretary of Defense report | PL 110–181 Sec 1306(c) | 55 |
| Sense of Congress | PL 110–181 Sec 1306(a) | 54 |
| National Defense Authorization Act, FY 2009. | PL 110–417 | 47 |
| | | 530 |
| Department of Defense authorizations | | |
| Notification of Committees on Armed Services with respect to nonproliferation and proliferation activities. | PL 110–417 Sec 1062 | 532 |
| Nuclear weapons, report | PL 110–417 Sec 1044 | 530 |
| Department of Energy national security programs | | |
| Enhancing nuclear forensics capabilities. | PL 110–417 Sec 3114 | 535 |
| Global initiatives for proliferation prevention program, review and reports. | PL 110–417 Sec 3116 | 536 |
| Global nuclear energy partnership, limitation on availability of funds. | PL 110–417 Sec 3117 | 537 |
| Funding allocations | PL 110–417 Sec 1302 | 48 |
| Iran | | |
| Capability to produce nuclear weapons, report. | PL 110–417 Sec 1234 | 534 |
| People's Republic of China | | |
| Security risks of participation by defense contractors in space activities. | PL 110–417 Sec 1233 | 532 |
| Specifications of programs and funds | PL 110–417 Sec 1301 | 47 |
| National emergencies | | |
| Construction authority | EO 13235 | 739 |
| Declaration by reason of terrorist attacks | Proclamation 7463 | 738 |
| National Emergencies Act | PL 94–412 | 733 |
| Accountability requirements | PL 94–412 Sec 401 | 736 |
| Declarations of future national emergencies. | PL 94–412 Sec 201 | 733 |
| Exercise of emergency powers and authorities. | PL 94–412 Sec 301 | 735 |
| Repeal and continuation of emergency power. | PL 94–412 Sec 501 | 736 |
| Reporting requirements | PL 94–412 Sec 401 | 736 |
| Terminating existing declared emergencies. | PL 94–412 Sec 101 | 733 |
| National Intelligence Estimate 95–19 | | |
| Review by Director of Central Intelligence. | PL 104–201 Sec 1311 | 633 |
| National Missile Defense Act of 1999 | | |
| National missile defense policy | PL 106–38 | 261 |
| Reduction of Russian nuclear forces policy. | PL 106–38 Sec 3 | 261 |
| National Security and Corporate Fairness under the Biological Weapons Convention Act. | PL 106–113 | 250 |
| Definitions | PL 106–113 Sec 1122 | 251 |
| Findings | PL 106–113 Sec 1123 | 251 |
| Nonproliferation program use of resources. | PL 106–113 Sec 1132 | 254 |
| Provision of information to Congress | PL 106–113 Sec 1134 | 255 |
| Science and technology centers | | |
| In the former Soviet Union, funding | PL 106–113 Sec 1138 | 256 |
| Research and activities | PL 106–113 Sec 1139 | 256 |
| Trial investigations and visits | PL 106–113 Sec 1124 | 252 |

| | | |
|---|---|---|
| National Security and Corporate Fairness under the Biological Weapons Convention Act—Continued | | |
| Weapons-grade material disposition | PL 106–113 Sec 1133 | 254 |
| National Security Council Committee on Nonproliferation | | |
| Establishment, membership and responsibilities. | PL 104–201 Sec 1442 | 320 |
| NATO. See North Atlantic Treaty Organization | | |
| NATO Enlargement Facilitation Act of 1996 | PL 104–208 | 823 |
| Authorization of appropriations for assistance. | PL 104–208 Sec 607 | 827 |
| Designation of countries eligible for assistance. | PL 104–208 Sec 606 | 827 |
| Eligibility termination | PL 104–208 Sec 611 | 829 |
| Estonia, Latvia and Lithuania, sense of Congress. | PL 104–208 Sec 605 | 826 |
| Excess defense articles | PL 104–208 Sec 609 | 828 |
| Findings | PL 104–208 Sec 602 | 823 |
| Modernization of defense capability | PL 104–208 Sec 610 | 829 |
| Partnership for Peace Information Management System. | PL 104–208 Sec 608 | 828 |
| Regional Airspace Initiative | PL 104–208 Sec 608 | 828 |
| Sense of Congress | PL 104–208 Sec 604 | 826 |
| U.S. policy | PL 104–208 Sec 603 | 826 |
| NATO Freedom Consolidation Act of 2007 | PL 110–17 | 809 |
| Designation of Albania, Croatia, Georgia, Macedonia and Ukraine as eligible to receive assistance. | PL 110–17 Sec 4 | 814 |
| Findings | PL 110–17 Sec 2 | 809 |
| Policy declarations | PL 110–17 Sec 3 | 813 |
| Security assistance authorization | PL 110–17 Sec 5 | 815 |
| NATO Participation Act of 1994 | PL 103–447 | 830 |
| Authorities, sense of Congress | PL 103–447 Sec 204 | 834 |
| Authority for program to facilitate transition to NATO membership. | PL 103–447 Sec 203 | 831 |
| Reporting requirement | PL 103–447 Sec 205 | 834 |
| Sense of Congress | PL 103–447 Sec 202 | 830 |
| 9/11 Commission recommendations | | |
| Weapons of mass destruction proliferation and terrorism prevention | | |
| Assistance to accelerate programs | PL 110–53 Sec 1831 | 59 |
| | | 184 |
| | PL 110–53 Sec 1832 | 59 |
| | | 184 |
| | PL 110–53 Sec 1833 | 60 |
| | | 185 |
| Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism | | |
| Composition of | PL 110–53 Sec 1853 | 189 |
| Establishment of | PL 110–53 Sec 1851 | 188 |
| Funding | PL 110–53 Sec 1859 | 192 |
| Nonapplicability of Federal Advisory Committee Act. | PL 110–53 Sec 1856 | 191 |
| Powers of | PL 110–53 Sec 1855 | 190 |
| Purposes of | PL 110–53 Sec 1852 | 188 |
| Report | PL 110–53 Sec 1857 | 192 |
| Responsibilities of | PL 110–53 Sec 1854 | 189 |
| Termination | PL 110–53 Sec 1858 | 192 |
| Definitions | PL 110–53 Sec 1802 | 179 |
| Findings | PL 110–53 Sec 1801 | 58 |
| | | 179 |
| Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism. | PL 110–53 Sec 1841 | 185 |

| | | |
|---|---|---|
| 9/11 Commission recommendations—Continued | | |
| Weapons of mass destruction proliferation and terrorism prevention—Continued | | |
| Proliferation Security Initiative | | |
| Authority to provide assistance to cooperative countries. | PL 110–53 Sec 1822 | 183 |
| Improvements and authorities | PL 110–53 Sec 1821 | 181 |
| Repeal and modification of assistance limitations. | PL 110–53 Sec 1811 | 58 |
| | | 180 |
| United States-Russia cooperation and coordination, sense of Congress. | PL 110–53 Sec 1842 | 188 |
| Nonproliferation and Export Control Assistance, 2003. | PL 107–228 | 214 |
| Appropriations authorization | PL 107–228 Sec 1301 | 214 |
| IAEA budget assessments and voluntary contributions. | PL 107–228 Sec 1305 | 215 |
| Reports | PL 107–228 Sec 1308 | 217 |
| Scientist relocation | PL 107–228 Sec 1304(d) | 215 |
| Technology acquisition programs for friendly foreign countries. | PL 107–228 Sec 1302 | 214 |
| Three-year international strategy | PL 107–228 Sec 1309 | 220 |
| Nonproliferation and International Security program | | |
| Appropriations authorization, 2008 | PL 110–53 Sec 1833 | 60 |
| Nonproliferation and Verification Research and Development program | | |
| Appropriations authorization, 2008 | PL 110–53 Sec 1833 | 60 |
| Nonproliferation Assistance Coordination Act of 2002. | PL 107–228 | 228 |
| Administrative support | PL 107–228 Sec 1336 | 230 |
| Authority | PL 107–228 Sec 1335(b) | 230 |
| Committee on Nonproliferation Assistance establishment. | PL 107–228 Sec 1334 | 229 |
| Confidentiality of information | PL 107–228 Sec 1337 | 231 |
| Consultation | PL 107–228 Sec 1339(b) | 231 |
| Definitions | PL 107–228 Sec 1333 | 229 |
| Findings | PL 107–228 Sec 1332 | 228 |
| Purposes | PL 107–228 Sec 1335(a) | 229 |
| Report | PL 107–228 Sec 1339(a) | 231 |
| Statutory construction | PL 107–228 Sec 1338 | 231 |
| Nonproliferation programs. See Arms control; National Defense Authorization Acts; Weapons of mass destruction | | |
| Nonproliferation provisions in Foreign Relations Authorization Act, FY 2003. | PL 107–228 | 234 |
| Chemical Weapons Convention compliance. | PL 107–228 Sec 1605 | 236 |
| Detailing U.S. governmental personnel to international organizations. | PL 107–228 Sec 1603 | 235 |
| Diplomatic presence overseas | PL 107–228 Sec 1604 | 235 |
| Real-time availability of seismological data. | PL 107–228 Sec 1602 | 235 |
| South Asia nuclear and missile nonproliferation. | PL 107–228 Sec 1601 | 234 |
| North Atlantic Treaty Organization | | |
| European Security Act of 1998 | PL 105–277 | 816 |
| Authorities relating to NATO enlargement. | PL 105–277 Sec 2703 | 818 |
| Ballistic missile defense restrictions and requirements. | PL 105–277 Sec 2705 | 820 |
| Statement of policy | PL 105–277 Sec 2702 | 816 |
| Treaty on Conventional Armed Forces in Europe, sense of Congress. | PL 105–277 Sec 2704 | 819 |

| | | |
|---|---|---|
| North Atlantic Treaty Organization—Continued | | |
| NATO Enlargement Facilitation Act of 1996. | PL 104–208 | 823 |
| NATO Freedom Consolidation Act of 2007. | PL 110–17 | 809 |
| NATO Participation Act of 1994 | PL 103–447 | 830 |
| Nuclear security initiative | | |
| Cooperation with Russia on ballistic missile defenses, sense of Congress. | PL 108–136 Sec 3623 | 211 |
| Reaffirming the U.S. commitment to the North Atlantic Alliance. | PL 96–9 | 835 |
| Reaffirming the unity of the North Atlantic Alliance commitment. | PL 95–287 | 836 |
| North Korea | | |
| Iran, North Korea and Syria Nonproliferation Act. | PL 106–178 | 238 |
| Application of measures to certain foreign persons. | PL 106–178 Sec 3 | 240 |
| Definitions | PL 106–178 Sec 7 | 247 |
| Exemption from measures | PL 106–178 Sec 5 | 242 |
| International Space Station restriction on extraordinary payments. | PL 106–178 Sec 6 | 244 |
| Procedures if measures are not applied. | PL 106–178 Sec 4 | 242 |
| Reports | PL 106–178 Sec 2 | 239 |
| Nonproliferation policy | PL 109–364 Sec 1211 | 545 |
| Treaty on the Non-Proliferation of Nuclear Weapons. | PL 103–160 Sec 1613 | 663 |
| North Korea Threat Reduction Act of 1999 | PL 106–113 | 500 |
| Definitions | PL 106–113 Sec 823 | 501 |
| Restrictions on nuclear cooperation | PL 106–113 Sec 822 | 500 |
| Nuclear energy | | |
| International Atomic Energy Agency Participation Act of 1957. | PL 85–177 | 521 |
| Appointments | PL 85–177 Sec 2 | 521 |
| Appropriations authorization | PL 85–177 Sec 5 | 523 |
| Authority | PL 85–177 Sec 4 | 523 |
| Federal employees | PL 85–177 Sec 6 | 523 |
| Senate advise and consent refusal | PL 85–177 Sec 8 | 524 |
| U.S. participation | PL 85–177 Sec 3 | 522 |
| International Atomic Energy cooperation | | |
| Authority to carry out provisions of the Atomic Energy Act of 1954. | EO 10841 | 528 |
| Authorization for communication of restricted data | | |
| Central Intelligence Agency | EO 10899 | 527 |
| Department of State | EO 11057 | 526 |
| Space nuclear reactors effect on gamma-ray astronomy missions, report. | PL 101–189 Sec 1012 | 690 |
| United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act. | PL 110–369 | 477 |
| Additional protocol between India and the IAEA. | PL 110–369 Sec 103 | 479 |
| Agreement approval | PL 110–369 Sec 101 | 478 |
| Certification requirement | PL 110–369 Sec 102(c) | 479 |
| Definitions | PL 110–369 Sec 2 | 477 |
| Policy declarations | PL 110–369 Sec 102(a) | 478 |
| | PL 110–369 Sec 102(b) | 478 |
| Procedures regarding subsequent reprocessing arrangement. | PL 110–369 Sec 201 | 480 |
| Rule of construction | PL 110–369 Sec 102(d) | 479 |
| Safeguard agreement implementation between India and the IAEA. | PL 110–369 Sec 104 | 479 |
| U.S. policy at the Nuclear Suppliers Group. | PL 110–369 Sec 204 | 480 |

| | | |
|---|---|---|
| Nuclear materials | | |
| Accelerated return of weapons-usable materials. | PL 107–314 Sec 3160 | 572 |
| Acceleration of removal or security of fissile materials, radiological materials, and related equipment at vulnerable sites. | PL 108–375 Sec 3132 | 555 |
| Agreement between the United States and the IAEA for application of safeguards. | EO 13458 | 379 |
| Atomic Energy Act of 1954 | PL 83–703 | 405 |
| Enrichment Oversight Committee | EO 13085 | 510 |
| Domestic enrichment services | EO 13085 Sec 6 | 512 |
| Establishment | EO 13085 Sec 1 | 510 |
| Foreign ownership, control or influence. | EO 13085 Sec 5 | 511 |
| HEU Agreement oversight | EO 13085 Sec 4 | 511 |
| Nuclear Regulatory Commission coordination. | EO 13085 Sec 7 | 512 |
| Objectives | EO 13085 Sec 2 | 510 |
| Organization | EO 13085 Sec 3 | 510 |
| Exports | | |
| Control programs | PL 107–314 Sec 3159 | 572 |
| Low-enriched uranium fuel | PL 96–280 | 400 |
| Reporting requirement | PL 105–261 Sec 1523 | 608 |
| Special material and components to India. | EO 12055 | 402 |
| | EO 12218 | 401 |
| Protection, Control and Accounting Program status, report. | PL 106–398 Sec 3171 | 581 |
| Report on special materials of the former Soviet Union. | PL 102–511 Sec 510 | 158 |
| Restrictions on nuclear cooperation with North Korea. | PL 106–113 Sec 822 | 500 |
| Securing weapons, material and expertise of the States of the former Soviet Union. | PL 107–107 Sec 1205 | 575 |
| Security assistance to other countries, sense of Congress. | PL 104–201 Sec 1310 | 632 |
| Strengthened international security | PL 107–314 Sec 3158 | 571 |
| Use of international protection and cooperation program funds outside the former Soviet Union. | PL 108–136 Sec 3124 | 565 |
| Weapons-grade uranium and plutonium of the former Soviet Union, study and report. | PL 108–136 Sec 3123 | 564 |
| Nuclear Non-Proliferation Act of 1978 | PL 95–242 | 380 |
| Annual reports | PL 95–242 Sec 602 | 395 |
| Definitions | PL 95–242 Sec 4 | 381 |
| Developing countries assistance | | |
| Policy | PL 95–242 Sec 501 | 391 |
| Programs | PL 95–242 Sec 502 | 392 |
| Reports | PL 95–242 Sec 501 | 391 |
| | PL 95–242 Sec 503 | 393 |
| Exports | | |
| Authority to continue agreements | PL 95–242 Sec 405 | 391 |
| Control requirements | PL 95–242 Sec 402 | 388 |
| Controls | PL 95–242 Sec 309 | 402 |
| Environmental protection | PL 95–242 Sec 407 | 391 |
| Licensing procedures | PL 95–242 Sec 304 | 386 |
| Peaceful nuclear activities | PL 95–242 Sec 403 | 388 |
| Renegotiation of cooperation agreements. | PL 95–242 Sec 404 | 390 |
| Review | PL 95–242 Sec 406 | 391 |
| Initiatives to provide adequate nuclear fuel supply | | |
| International undertakings | PL 95–242 Sec 104 | 383 |
| Policy | PL 95–242 Sec 101 | 382 |

| | | |
|---|---|---|
| Nuclear Non-Proliferation Act of 1978—Continued | | |
| Initiatives to provide adequate nuclear fuel supply—Continued | | |
| Reevaluation of nuclear fuel cycle | PL 95–242 Sec 105 | 384 |
| Report | PL 95–242 Sec 103 | 383 |
| Uranium enrichment capacity | PL 95–242 Sec 102 | 382 |
| International safeguard system strengthening | | |
| Negotiations | PL 95–242 Sec 203 | 386 |
| Policy | PL 95–242 Sec 201 | 385 |
| Training program | PL 95–242 Sec 202 | 385 |
| Policy statement | PL 95–242 Sec 2 | 380 |
| Presidential reports | PL 95–242 Sec 601 | 393 |
| Purpose statement | PL 95–242 Sec 3 | 381 |
| Saving clause | PL 95–242 Sec 603 | 397 |
| Nuclear Proliferation Prevention Act of 1994 | PL 103–236 | 324 |
| Definitions | PL 103–236 Sec 830 | 331 |
| International Atomic Energy Agency | | |
| Bilateral and multilateral initiatives | PL 103–236 Sec 841 | 332 |
| Definitions | PL 103–236 Sec 844 | 335 |
| Internal reforms | PL 103–236 Sec 842 | 333 |
| Reporting requirement | PL 103–236 Sec 843 | 334 |
| International financial institutions role | PL 103–236 Sec 823 | 328 |
| Procurement sanction on persons engaging in export activities that contribute to proliferation. | PL 103–236 Sec 821 | 324 |
| Prohibition on assisting proliferation through the provision of financing. | PL 103–236 Sec 824 | 328 |
| Reporting on demarches, sense of Congress. | PL 103–236 Sec 828(b) | 330 |
| Nuclear Regulatory Commission | | |
| Enrichment Oversight Committee coordination. | EO 13085 Sec 7 | 512 |
| Nuclear Security Administration | | |
| Elimination of weapons grade plutonium production in Russia. | PL 107–314 Sec 3151 | 86 |
| Nuclear Security Initiative Act of 2003 | PL 108–136 | 209 |
| Enhanced collaboration for more reliable Russian early warning systems, sense of Congress. | PL 108–136 Sec 3624 | 212 |
| Interparliamentary Threat Reduction Working Group establishment. | PL 108–136 Sec 3622 | 211 |
| Management assessment of threat reduction and nonproliferation programs. | PL 108–136 Sec 3611 | 79 |
| | | 209 |
| Nuclear and radiological security and safety discussions between IAEA and OECD. | PL 108–136 Sec 3631 | 212 |
| Russian tactical nuclear weapons, comprehensive inventory. | PL 108–136 Sec 3621 | 211 |
| United States and NATO cooperation with Russia on ballistic missile defenses, sense of Congress. | PL 108–136 Sec 3623 | 211 |
| Nuclear Suppliers Group | | |
| U.S. policy to strengthen international nuclear nonproliferation regime. | PL 110–369 Sec 204 | 480 |
| Nuclear weapons. See also Arms control; Weapons of mass destruction | | |
| Accidental launch protection, sense of Congress. | PL 101–189 Sec 1005 | 685 |
| Agreement for cooperation between the United States and China. | PL 99–183 | 519 |
| Alternative strategic nuclear force for the United States under potential START Treaty. | PL 100–456 Sec 908 | 697 |

Nuclear weapons—Continued
- Assistance limitation to scientists of the former Soviet Union. — PL 104–106 Sec 1207 ..... 133
- Blocking property of the Russian Federation government related to disposition of highly enriched uranium. — EO 13159 ..... 373
- Collaborative measures to reduce the risks of a Russian launch, report. — PL 108–375 Sec 1214 ..... 555
- Coordination of nonproliferation programs, sense of Congress. — PL 106–398 Sec 3174 ..... 586
- Elimination of Weapons Grade Plutonium Program
  - Department of Energy programs ..... — PL 107–314 Sec 3151 ..... 86
  - Funds use limitation ..... — PL 106–398 Sec 1310 ..... 102
- Emergency preparedness testing ..... — PL 104–201 Sec 1415 ..... 313
- Emergency response ..... — PL 104–201 Sec 1413 ..... 312
- Former Soviet Union and Eastern Europe reduction policy. — PL 102–484 Sec 1321 ..... 666
- High-yield explosives response team ..... — PL 104–201 Sec 1414 ..... 313
- Indefinite extension of Nuclear Non-Proliferation Treaty, sense of Congress. — PL 103–337 Sec 1508 ..... 648
- International fissile material and warhead control
  - Development and demonstration program. — PL 102–484 Sec 3153 ..... 673
  - Negotiations ..... — PL 102–484 Sec 3151 ..... 672
  - Tritium production ..... — PL 102–484 Sec 3154 ..... 673
- International nonproliferation activities — PL 103–160 Sec 1611 ..... 659
- Nonproliferation provisions, report ..... — PL 109–163 Sec 1212 ..... 551
- North Korea and the Treaty on the Non-Proliferation of Nuclear Weapons. — PL 103–160 Sec 1613 ..... 663
- Nuclear Cities Initiative ..... — PL 106–398 Sec 3172 ..... 582
  — PL 107–107 Sec 3132 ..... 578
- Nuclear Cities Initiative program and Initiatives for Proliferation Prevention program consolidation. — PL 107–107 Sec 3131 ..... 578
- Nuclear non-proliferation functions ..... — EO 12058 ..... 398
- Nuclear terrorism prevention
  - Annual report ..... — PL 110–181 Sec 3134 ..... 542
  - Definitions ..... — PL 110–181 Sec 3131 ..... 540
  - Minimum security standard for nuclear weapons and formula quantities of strategic special nuclear material. — PL 110–181 Sec 3133 ..... 541
  - Sense of Congress ..... — PL 110–181 Sec 3132 ..... 541
- Nuclear winter findings and policy implications, report. — PL 98–525 Sec 1107 ..... 718
  — PL 99–145 Sec 1006 ..... 714
- Plutonium production elimination ..... — PL 104–201 Sec 1432 ..... 318
- Purchase, packaging and transportation of fissile materials at risk of theft, sense of Congress. — PL 104–201 Sec 1455 ..... 323
- Purchase of low-enriched uranium derived from Russian highly enriched uranium, sense of Congress. — PL 104–201 Sec 1454 ..... 323
- Reduction of excessive unobligated or unexpended balances for defense nuclear nonproliferation activities, report. — PL 108–136 Sec 3122 ..... 564
- Report ..... — PL 110–417 Sec 1044 ..... 530
- Risk reduction centers
  - Establishment in the United States and Soviet Union, sense of Congress. — PL 98–525 Sec 1108 ..... 719
  - Support ..... — PL 100–180 Sec 907 ..... 706
    - Sense of Congress ..... — PL 99–661 Sec 1004 ..... 709
- Risk reduction measures, sense of Congress. — PL 101–510 Sec 1441 ..... 677

Nuclear weapons—Continued
- Russian nonstrategic nuclear arms, sense of Congress. — PL 106–65 Sec 1312 ..... 109
- Russian nonstrategic weapons ..... — PL 105–261 Sec 1504 ..... 600
- Russian strategic missile detargeting, report. — PL 105–85 Sec 1301 ..... 612
- Safe and secure dismantlement of Soviet arsenal, sense of Congress. — PL 103–337 Sec 1209 ..... 140
- Securing weapons, material and expertise of the States of the former Soviet Union. — PL 107–107 Sec 1205 ..... 575
- Security issues, report ..... — PL 102–190 Sec 3142 ..... 676
- Soviet Nuclear Threat Reduction Act of 1991. — PL 102–228 ..... 166
  - Administration of program ..... — PL 102–228 Sec 221 ..... 167
  - Authorization of program ..... — PL 102–228 Sec 212 ..... 167
  - Dire emergency supplemental appropriations. — PL 102–228 Sec 223 ..... 169
  - Emergency airlift authorization ..... — PL 102–228 Sec 301 ..... 169
  - Prior notice of obligations to Congress. — PL 102–228 Sec 231 ..... 169
  - Repayment arrangements ..... — PL 102–228 Sec 222 ..... 168
  - Reporting requirements ..... — PL 102–228 Sec 302 ..... 171
- START talks, sense of Congress ..... — PL 100–456 Sec 902 ..... 695
- START Treaties
  - Funds use limitation ..... — PL 105–85 Sec 1404 ..... 121
  - Modernization ..... — PL 101–510 Sec 1442 ..... 679
  - Monitoring issues, report ..... — PL 106–113 Sec 1114 ..... 33
  - Ratification, sense of Congress ..... — PL 104–106 Sec 1406 ..... 640
  - Strategic nuclear delivery systems, limitation on retirement or dismantlement. — PL 104–106 Sec 1404 ..... 638
    - PL 104–201 Sec 1302 ..... 625
    - PL 105–85 Sec 1302 ..... 613
  - Strategic stability under START III, report. — PL 106–65 Sec 1503 ..... 597
- Storage sites agreement between Russia and United States. — PL 106–398 Sec 1306 ..... 97
- Strategic arms reduction agreement effect on Trident program, report. — PL 101–189 Sec 1001 ..... 682
- Strategic arms reduction talks agreement. — PL 101–510 Sec 1443 ..... 679
- Strategic arms reductions, sense of Congress. — PL 106–65 Sec 1502 ..... 596
- Strategic nuclear delivery systems, limitation on retirement or dismantlement. — PL 104–106 Sec 1404 ..... 638
  - PL 104–201 Sec 1302 ..... 625
  - PL 105–85 Sec 1302 ..... 613
- Strategic nuclear submarine force, report. — PL 98–525 Sec 1101 ..... 716
- Strategic nuclear warhead dismantling, report. — PL 108–136 Sec 1033 ..... 562
- Strategic stability under START III, report. — PL 106–65 Sec 1503 ..... 597
- Strengthening sanctions against proliferation activities. — PL 104–201 Sec 1303 ..... 627
- Tactical nuclear warheads withdrawal from Europe, report. — PL 98–525 Sec 1104 ..... 717
- Testing, sense of Congress ..... — PL 99–661 Sec 1002 ..... 707
- Testing and test ban readiness program negotiation resumption, report. — PL 102–190 Sec 3140 ..... 675
- Testing limitations negotiation ..... — PL 103–337 Sec 1509 ..... 649
- Tests in South Asia, sense of Congress .. — PL 105–261 Sec 1532 ..... 609
- Theater nuclear weapons and force structure, report. — PL 98–525 Sec 1103 ..... 716
- Treaties to prevent testing policy ..... — PL 98–525 Sec 1111 ..... 723
- U.S. stockpile safety, security and reliability. — PL 105–85 Sec 1305 ..... 618

Nuclear weapons—Continued
United States Additional Protocol Implementation Act. PL 109–401 ... 193
Appropriations authorization ... PL 109–401 Sec 281 ... 205
Authority ... PL 109–401 Sec 211 ... 196
Complementary access
Authority requirement ... PL 109–401 Sec 221 ... 196
Consents and warrants ... PL 109–401 Sec 223 ... 198
Procedures for ... PL 109–401 Sec 222 ... 197
Prohibited acts ... PL 109–401 Sec 224 ... 199
Confidentiality of information ... PL 109–401 Sec 231 ... 199
Definitions ... PL 109–401 Sec 203 ... 194
Enforcement ... PL 109–401 Sec 243 ... 202
Environmental sampling
National security exclusion application. PL 109–401 Sec 252 ... 202
Notification to Congress of IAEA Board approval. PL 109–401 Sec 251 ... 202
Rule of construction ... PL 109–401 Sec 254 ... 203
Findings ... PL 109–401 Sec 202 ... 193
IAEA inspections and visits ... PL 109–401 Sec 262 ... 204
Penalties ... PL 109–401 Sec 242 ... 200
Protection of national security information. PL 109–401 Sec 261 ... 203
Recordkeeping violations ... PL 109–401 Sec 241 ... 200
Reports
Content of reports on U.S. declarations. PL 109–401 Sec 273 ... 204
Efforts to promote implementation of additional protocols. PL 109–401 Sec 274 ... 205
IAEA notifications ... PL 109–401 Sec 275 ... 205
Initial U.S. declaration ... PL 109–401 Sec 271 ... 204
Revisions to initial U.S. declaration. PL 109–401 Sec 272 ... 204
Severability ... PL 109–401 Sec 204 ... 196
United States-India Peaceful Atomic Energy Cooperation Act of 2006. PL 109–401 ... 482
Compliance with nuclear nonproliferation treaty obligations. PL 109–401 Sec 105 ... 496
Congressional approval ... PL 109–401 Sec 104 ... 485
Definitions ... PL 109–401 Sec 110 ... 497
Inoperability of determination and waivers. PL 109–401 Sec 106 ... 496
MTCR adherent status ... PL 109–401 Sec 107 ... 496
Policy statements ... PL 109–401 Sec 103 ... 484
Scientific cooperative nuclear nonproliferation program. PL 109–401 Sec 109 ... 497
Sense of Congress ... PL 109–401 Sec 102 ... 482
Waiver authority ... PL 109–401 Sec 104 ... 485
United States-Soviet negotiations on reduction in nuclear arms, sense of Congress. PL 99–145 Sec 1004 ... 714
Verification conducted with regard to mobile ICBMs under START agreement, report. PL 101–189 Sec 1002 ... 683
Verification of compliance with agreements to limit testing, report. PL 101–189 Sec 1010 ... 689
Warhead dismantlement and material disposal. PL 102–190 Sec 3141 ... 675

## O

OAS. See Organization of American States
OECD. See Organization for Economic Cooperation and Development

| | | |
|---|---|---|
| Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism | | |
| Annual report on strategic plan | PL 110–53 Sec 1841(f) | 188 |
| Consultation with Commission | PL 110–53 Sec 1841(e) | 188 |
| Duties | PL 110–53 Sec 1841(c) | 186 |
| Establishment of | PL 110–53 Sec 1841(a) | 185 |
| Officers | PL 110–53 Sec 1841(b) | 185 |
| Staff | PL 110–53 Sec 1841(d) | 187 |
| United States-Russia cooperation and coordination, sense of Congress. | PL 110–53 Sec 1842 | 188 |
| On-Site Inspection Agency | | |
| Definitions | PL 87–297 Sec 504 | 26 |
| Establishment and responsibilities of | PL 87–297 Sec 501 | 24 |
| Policy coordination | PL 87–297 Sec 502 | 25 |
| Reprogramming notifications review | PL 87–297 Sec 503 | 26 |
| Operation Desert Shield/Desert Storm | | |
| Arms sales restriction to Saudi Arabia and Kuwait. | PL 102–229 Sec 104 | 173 |
| Congressional designation of emergency | PL 102–229 Sec 202 | 176 |
| Funds transfer | PL 102–229 Sec 108 | 174 |
| | PL 102–229 Sec 109 | 175 |
| United States recognition of Ukrainian independence, sense of the Senate. | PL 102–229 Sec 204 | 176 |
| OPIC. See Overseas Private Investment Corporation | | |
| Organization for Economic Cooperation and Development | | |
| Nuclear and radiological security and safety discussions with IAEA. | PL 108–136 Sec 3631 | 212 |
| Organization of American States | | |
| Privileges to representatives of member states. | PL 82–486 | 982 |
| Organization of Eastern Caribbean States | | |
| Immunities, exemptions and privileges | PL 79–291 Sec 11 | 979 |
| Overseas Private Investment Corporation | | |
| Taiwan relations | PL 96–8 Sec 5 | 840 |


## P


| | | |
|---|---|---|
| Panama Canal | | |
| Delegation of functions | EO 12215 | 922 |
| Agencies | EO 12215 Sec 1–4 | 924 |
| Coordination of pay and employment practices. | EO 12215 Sec 1–2 | 922 |
| Panama Canal Commission | EO 12215 Sec 1–3 | 923 |
| Secretary of Defense | EO 12215 Sec 1–1 | 922 |
| Panama Canal Act of 1979 | PL 96–70 | 855 |
| Accounting policies | PL 96–70 Sec 1311 | 895 |
| Audits | PL 96–70 Sec 1313 | 895 |
| Board of Contract Appeals | PL 96–70 Sec 3102 | 914 |
| Claims for injuries to persons or property. | PL 96–70 Sec 1401 | 902 |
| Congressional restraints on property transfer and tax expenditures. | PL 96–70 Sec 1344 | 901 |
| Definitions | PL 96–70 Sec 3 | 858 |
| Disaster relief | PL 96–70 Sec 1343 | 900 |
| Interagency services | PL 96–70 Sec 1321 | 897 |
| Operating regulations | PL 96–70 Sec 1801 | 912 |
| Panama Canal Board of Appeals | | |
| Appeals to | PL 96–70 Sec 1222 | 878 |
| Duties | PL 96–70 Sec 1221 | 878 |
| Panama Canal Commission | | |
| Administrator | PL 96–70 Sec 1103 | 864 |
| Ambassador's authority | PL 96–70 Sec 1110 | 867 |
| Code of conduct for personnel | PL 96–70 Sec 1112 | 868 |
| Consultative committee | PL 96–70 Sec 1105 | 865 |

Panama Canal Act of 1979—Continued
Panama Canal Commission—Continued
Deputy administrator ..... PL 96–70 Sec 1104 ..... 865
Establishment, purposes, offices and residence. PL 96–70 Sec 1101 ..... 860
General powers ..... PL 96–70 Sec 1102a ..... 862
Joint Commission on the Environment. PL 96–70 Sec 1106 ..... 865
Joint sea level canal study committee. PL 96–70 Sec 1109 ..... 867
Office of Ombudsman ..... PL 96–70 Sec 1113 ..... 869
Panama Canal defense ..... PL 96–70 Sec 1108 ..... 866
Security legislation ..... PL 96–70 Sec 1111 ..... 868
Specific powers ..... PL 96–70 Sec 1102b ..... 863
Supervisory board ..... PL 96–70 Sec 1102 ..... 860
Travel expenses ..... PL 96–70 Sec 1107 ..... 866
Panama Canal Commission personnel
Air transportation ..... PL 96–70 Sec 1210 ..... 873
Applicability of benefits ..... PL 96–70 Sec 1209 ..... 872
Appointment, compensation and duties. PL 96–70 Sec 1202 ..... 870
Benefits based on basic pay ..... PL 96–70 Sec 1218 ..... 877
Canal Zone Policy Coordinating Board. PL 96–70 Sec 1261 ..... 888
Compensation of uniformed services individuals. PL 96–70 Sec 1204 ..... 871
Deduction from basic pay for supplies or services. PL 96–70 Sec 1205 ..... 872
Definitions ..... PL 96–70 Sec 1201 ..... 870
PL 96–70 Sec 1211 ..... 873
Disability benefits administration ... PL 96–70 Sec 1245 ..... 886
Employment standards ..... PL 96–70 Sec 1213 ..... 874
Labor-management relations ..... PL 96–70 Sec 1271 ..... 888
Law enforcement employees ..... PL 96–70 Sec 1261 ..... 888
Merit requirements ..... PL 96–70 Sec 1212 ..... 873
Placement ..... PL 96–70 Sec 1232 ..... 882
Privileges and immunities ..... PL 96–70 Sec 1208 ..... 872
Quarters allowance ..... PL 96–70 Sec 1217a ..... 876
Recruitment and retention remuneration. PL 96–70 Sec 1217 ..... 875
Retirement under special treaty provisions. PL 96–70 Sec 1243 ..... 884
Review and adjustment of classifications, grades and pay level. PL 96–70 Sec 1220 ..... 878
Transfer of Federal employees ..... PL 96–70 Sec 1203 ..... 871
Transferred or reemployed employees. PL 96–70 Sec 1231 ..... 879
Transition separation incentive payments. PL 96–70 Sec 1233 ..... 882
Uniform application of standards and rates. PL 96–70 Sec 1216 ..... 875
United States Code applicability ..... PL 96–70 Sec 1224 ..... 879
Panama Canal Revolving Fund
Borrowing authority ..... PL 96–70 Sec 1304 ..... 893
Dissolution of Commission ..... PL 96–70 Sec 1305 ..... 893
Emergency authority ..... PL 96–70 Sec 1303 ..... 892
Establishment of ..... PL 96–70 Sec 1302 ..... 890
Printing ..... PL 96–70 Sec 1306 ..... 894
Payments to the Republic of Panama ..... PL 96–70 Sec 1341 ..... 899
Postal service ..... PL 96–70 Sec 1331 ..... 898
Procurement regulations ..... PL 96–70 Sec 3101 ..... 913
Public property
Assets and liabilities of Panama Canal Company. PL 96–70 Sec 1501 ..... 907
Disposition of property of the United States. PL 96–70 Sec 1503 ..... 908
Transfer of property to Panama ..... PL 96–70 Sec 1504 ..... 908

| | | |
|---|---|---|
| Panama Canal Act of 1979—Continued | | |
| Public property—Continued | | |
| Transfers and cross-servicing between agencies. | PL 96–70 Sec 1502 | 907 |
| Reimbursements | PL 96–70 Sec 1321 | 897 |
| Reports | PL 96–70 Sec 3301 | 916 |
| Statement of purpose | PL 96–70 Sec 2 | 858 |
| Tolls for use of Canal | | |
| Bases of tolls | PL 96–70 Sec 1602 | 909 |
| Calculation of interest | PL 96–70 Sec 1603 | 910 |
| Prescription of measurement rules and rates. | PL 96–70 Sec 1601 | 909 |
| Procedures | PL 96–70 Sec 1604 | 911 |
| Transactions with the Republic of Panama. | PL 96–70 Sec 1342 | 900 |
| Vessel damage claims | | |
| Actions on claims | PL 96–70 Sec 1416 | 905 |
| Board of Local Inspectors | PL 96–70 Sec 1418 | 906 |
| Delays for which no responsibility is assumed. | PL 96–70 Sec 1414 | 905 |
| Injuries in locks | PL 96–70 Sec 1411 | 902 |
| Injuries outside locks | PL 96–70 Sec 1412 | 903 |
| Insurance | PL 96–70 Sec 1419 | 907 |
| Investigation of accident or injury | PL 96–70 Sec 1417 | 906 |
| Measure of damages | PL 96–70 Sec 1413 | 904 |
| Settlement | PL 96–70 Sec 1415 | 905 |
| Vessel inspection | | |
| Foreign vessels | PL 96–70 Sec 1812 | 913 |
| Regulations | PL 96–70 Sec 1813 | 913 |
| Vessels subject to inspection | PL 96–70 Sec 1811 | 913 |
| Panama Canal Commission Compensation Fund Act of 1988. | PL 100–705 | 918 |
| Continuation of benefits | PL 100–705 Sec 6 | 920 |
| Establishment of Fund | PL 100–705 Sec 2 | 918 |
| Final evaluation of the Fund | PL 100–705 Sec 5 | 919 |
| Operation of Fund | PL 100–705 Sec 3 | 918 |
| Transfers from the Fund for compensation benefits. | PL 100–705 Sec 4 | 919 |
| Panama Canal Reauthorization | | |
| Report to Congress | PL 100–203 Sec 5418 | 921 |
| Partnership for Peace Information Management System | | |
| Funding | PL 104–208 Sec 608 | 828 |
| Peaceful Nuclear Explosions Treaty | | |
| On-Site Inspection Agency responsibilities. | PL 87–297 Sec 501 | 25 |
| Peacekeeping activities | | |
| Funds use prohibition for exercises with Russia. | PL 104–106 Sec 1203 | 132 |
| Middle East | | |
| U.S. payments authorization | PL 94–37 | 969 |
| Reform certification requirements | PL 106–113 Sec 931 | 954 |
| Restriction on U.S. participation in certain U.N. operations. | PL 107–206 Sec 2005 | 788 |
| U.S. financial contributions | PL 79–264 Sec 4 | 930 |
| People's Republic of China | | |
| Adherence to MTCR | PL 106–65 Sec 1401 | 587 |
| Diplomatic privileges to the Liaison Office. | PL 93–22 | 984 |
| End-use verification for use of high-performance computers. | PL 106–65 Sec 1407 | 591 |
| Exporting high-performance computers to, report. | PL 106–65 Sec 1406 | 591 |
| Joint Defense Conversion Commission with United States. | PL 104–201 Sec 1307 | 631 |
| Military capabilities, report | PL 104–201 Sec 1305 | 627 |

| | | |
|---|---|---|
| People's Republic of China—Continued | | |
| Nonproliferation provisions | | |
| Prohibition on procurements from military companies. | PL 109–163 Sec 1211 | 550 |
| Satellite export controls, report | PL 105–261 Sec 1515 | 605 |
| Security risks of participation by defense contractors in space activities. | PL 110–417 Sec 1233 | 532 |
| Technology transmitted to, report | PL 106–65 Sec 1405 | 591 |
| Weapons proliferation and policies, report. | PL 104–201 Sec 1306 | 628 |
| Permanent Observer Mission of the Holy See to the United Nations | | |
| Diplomatic privileges | PL 109–472 Sec 7 | 987 |
| Presidential Special Representatives | PL 87–297 Sec 201 | 9 |
| Proliferation Prevention Enhancement Act of 1999. | PL 106–113 | 257 |
| Automated Export System | | |
| Definitions | PL 106–113 Sec 1256 | 260 |
| Department of State licensing procedures acceleration. | PL 106–113 Sec 1255 | 259 |
| Mandatory use | PL 106–113 Sec 1252 | 258 |
| Report to Congress | PL 106–113 Sec 1254 | 259 |
| Voluntary use, sense of Congress | PL 106–113 Sec 1253 | 259 |
| Proliferation Security Initiative | | |
| Improvements and authorities | PL 110–53 Sec 1821 | 181 |
| Protection and Prevention of Crimes Against Internationally Protected Persons. | 18 USC | 988 |
| Conspiracy to murder | 18 USC Sec 1117 | 993 |
| Kidnapping | 18 USC Sec 1201 | 993 |
| Murder or manslaughter | 18 USC Sec 1116 | 991 |
| Property occupied by foreign governments. | 18 USC Sec 970 | 990 |
| Protection of foreign officials and official guests. | 18 USC Sec 112 | 988 |
| Threats and extortion | 18 USC Sec 878 | 990 |


## R


| | | |
|---|---|---|
| Radar, Krasnoyarsk | | |
| Findings and sense of Congress | PL 100–180 Sec 902 | 702 |
| | PL 101–189 Sec 1006 | 686 |
| Radiological weapons. See also Arms control | | |
| Emergency preparedness testing | PL 104–201 Sec 1415 | 313 |
| High-yield explosives response team | PL 104–201 Sec 1414 | 313 |
| Reagan National Defense Authorization Act, FY 2005. See Cooperative Threat Reduction, FY 2005; National Defense Authorization Act, FY 2005 | | |
| Red Cross, International Committee of the | | |
| Immunities, exemptions and privileges | PL 79–291 Sec 13 | 980 |
| Refugees | | |
| International mine clearing efforts, report. | PL 102–484 Sec 1364 | 669 |
| Regional Airspace Initiative | | |
| Funding | PL 104–208 Sec 608 | 828 |
| Reports to Congress | | |
| American Institute of Taiwan | PL 96–8 Sec 12 | 844 |
| Arms control | | |
| Activities and assistance | PL 106–398 Sec 1308 | 98 |
| Advisory panel to assess domestic response capabilities. | PL 105–261 Sec 1405(h) | 298 |
| Annual review of IAEA projects | PL 107–228 Sec 1343 | 232 |
| Appropriations request summary submission requirement. | PL 105–261 Sec 1307 | 115 |
| Assistance to Russia for construction of plutonium storage facility. | PL 103–160 Sec 1612(d) | 662 |

Reports to Congress—Continued
Arms control—Continued

| | | |
|---|---|---|
| Audits | PL 106–398 Sec 1311 | 102 |
| Automated Export System mandatory use. | PL 106–113 Sec 1254 | 259 |
| Ballistic missile defense restrictions and requirements. | PL 105–277 Sec 2705(d) | 821 |
| Biological weapons programs in Russia. | PL 105–261 Sec 1308 | 116 |
| Chemical Weapons Convention compliance. | PL 107–228 Sec 1605(b) | 237 |
| Chemical weapons destruction at Shchuch'ye, Russia. | PL 110–181 Sec 1307 | 55 |
| China weapons proliferation | EO 12851 Sec 4 | 363 |
| Collaborative measures to reduce the risks of a Russian nuclear weapons launch. | PL 108–375 Sec 1214 | 555 |
| Compliance verification | PL 87–297 Sec 306 | 14 |
| Comprehensive inventory of Russian nonstrategic nuclear weapons. | PL 109–163 Sec 3115(b) | 552 |
| Comprehensive preparedness program. | PL 104–201 Sec 1443(c) | 322 |
| Contributions of foreign persons to weapons of mass destruction and delivery systems efforts of countries of concern. | PL 104–293 Sec 722 | 306 |
| Counterproliferation activities and programs. | PL 103–337 Sec 1503 | 644 |
| Crisis stability and control study | PL 99–93 Sec 706(b) | 45 |
| Defense industries conversion | PL 101–216 Sec 106 | 40 |
| Demarches | PL 103–236 Sec 828(b) | 330 |
| Department of Energy nonproliferation monitoring. | PL 106–398 Sec 3173 | 585 |
| Department of Energy requirements | PL 95–238 Sec 203 | 403 |
| | PL 95–238 Sec 208 | 403 |
| Detailing U.S. governmental personnel to international organizations. | PL 107–228 Sec 1603(b) | 235 |
| Determinations regarding use of chemical or biological weapons. | PL 102–182 Sec 306(b) | 352 |
| Domestic preparedness for response to threats of use of weapons of mass destruction. | PL 105–261 Sec 1402(b) | 297 |
| Elimination of Russian stockpile | PL 106–398 Sec 1309(b) | 102 |
| Enhancing nuclear forensics capabilities. | PL 110–417 Sec 3114(c) | 535 |
| Expanded Threat Reduction Initiative. | PL 106–65 Sec 1309 | 108 |
| Foreign launch security violations | PL 106–65 Sec 1405 | 591 |
| Former Soviet Union and Eastern Europe nuclear weapons reduction. | PL 102–484 Sec 1321(c) | 668 |
| Funding allocations | PL 110–417 Sec 1302 | 48 |
| | PL 106–398 Sec 1302(b) | 96 |
| | PL 107–107 Sec 1302(b) | 91 |
| | PL 108–136 Sec 1302(b) | 73 |
| | PL 108–375 Sec 1302(b) | 70 |
| | PL 109–163 Sec 1302(b) | 66 |
| | PL 109–364 Sec 1302(b) | 62 |
| | PL 110–181 Sec 1302(b) | 53 |
| | PL 107–314 Sec 1302(c) | 83 |
| Funds use limitation for construction of fossil fuel energy plants. | PL 106–398 Sec 1307(b) | 97 |
| Funds use prohibition until report submission. | PL 104–201 Sec 1504 | 127 |

Reports to Congress—Continued
Arms control—Continued
Funds use prohibition until report submission—Continued

| | | |
|---|---|---|
| | PL 105–85 Sec 1405 | 121 |
| | PL 105–85 Sec 1407 | 122 |
| | PL 105–85 Sec 1408 | 122 |
| | PL 106–65 Sec 1306 | 107 |
| | PL 107–107 Sec 1303 | 92 |
| | PL 107–314 Sec 1303 | 84 |
| Global initiatives for proliferation prevention program. | PL 110–417 Sec 3116(b) | 536 |
| Individuals with expertise in weapons of mass destruction programs. | PL 105–261 Sec 1309 | 117 |
| Inspector General | PL 100–213 Sec 6 | 42 |
| International nonproliferation initiative. | PL 102–484 Sec 1505(e) | 343 |
| International Nuclear Materials Protection and Cooperation program contributions utilization. | PL 109–364 Sec 3114(e) | 548 |
| International security for nuclear materials and operations. | PL 107–314 Sec 3158 | 571 |
| International Space Station payments. | PL 106–178 Sec 6(i) | 247 |
| Iran, North Korea and Syria nonproliferation. | PL 106–178 Sec 2 | 239 |
| Iran-Iraq nonproliferation | PL 102–484 Sec 1607 | 347 |
| Iran nuclear proliferation prevention. | PL 107–228 Sec 1344 | 233 |
| Iran's capability to produce nuclear weapons. | PL 110–417 Sec 1234 | 534 |
| Iraq acquisition of advanced weapons. | PL 108–136 Sec 1204 | 563 |
| Limited waiver of restrictions on use of funds. | PL 107–314 Sec 1306(b) | 85 |
| Military assistance to civilian law enforcement officials in emergency situations involving biological or chemical weapons. | PL 104–201 Sec 1416(e) | 315 |
| Missile proliferation sanctions | EO 12851 Sec 2(c) | 363 |
| National Academy of Sciences biological weapons proliferation prevention study. | PL 109–364 Sec 1304 | 63 |
| | PL 110–181 Sec 1308 | 56 |
| National Academy of Sciences study | PL 110–181 Sec 1306(b) | 55 |
| Negotiating records | PL 103–236 Sec 713(b) | 38 |
| Nonproliferation activities of Department of Defense and Department of Energy. | PL 102–484 Sec 1503 | 338 |
| Nonproliferation and counterproliferation activities and programs. | PL 103–160 Sec 1606 | 658 |
| Nonproliferation and disarmament activities. | PL 102–511 Sec 508(b) | 155 |
| Nonproliferation assistance coordination. | PL 107–228 Sec 1339(a) | 231 |
| Nonstrategic nuclear weapons | PL 109–163 Sec 1212 | 551 |
| North Korea nonproliferation policy | PL 109–364 Sec 1211 | 546 |
| Nuclear Cities Initiative | PL 107–107 Sec 3132 | 578 |
| Nuclear material export restrictions | PL 83–703 Sec 134(b) | 462 |
| Nuclear material international agreements. | PL 83–703 Sec 130 | 451 |
| Nuclear Materials Protection, Control and Accounting Program status. | PL 106–398 Sec 3171 | 581 |
| Nuclear nonproliferation | PL 95–242 Sec 601 | 393 |

Reports to Congress—Continued
Arms control—Continued
Nuclear nonproliferation—Continued

| | | |
|---|---|---|
| | PL 95–242 Sec 602 | 395 |
| | PL 103–236 Sec 843 | 334 |
| | PL 106–113 Sec 1134 | 255 |
| Nuclear nonproliferation assistance to developing countries. | PL 95–242 Sec 503 | 393 |
| Nuclear terrorism prevention | PL 110–181 Sec 3134 | 542 |
| Nuclear weapons | PL 110–417 Sec 1044(c) | 531 |
| Obligation of funds prior notice | PL 103–160 Sec 1206 | 147 |
| | PL 104–106 Sec 1205 | 132 |
| Offensive warfare program of the former Soviet Union. | PL 103–337 Sec 1207 | 137 |
| On-site inspection agency | PL 100–456 Sec 909 | 698 |
| Payment of taxes, duties, and other assessments on assistance, report. | PL 105–85 Sec 1409 | 123 |
| People's Republic of China adherence to MTCR. | PL 106–65 Sec 1401(b) | 587 |
| Policy and actions | PL 87–297 Sec 403 | 21 |
| Policy implications | PL 100–180 Sec 906 | 706 |
| Procurement sanction on persons engaging in export activities that contribute to proliferation. | PL 103–236 Sec 821(b) | 325 |
| Prohibition on assisting proliferation through the provision of financing. | PL 103–236 Sec 824(e) | 329 |
| Proliferation of missiles and essential components of nuclear, biological, chemical and radiological weapons. | PL 107–228 Sec 1308 | 217 |
| Reduction of excessive unobligated or unexpended balances for defense nuclear nonproliferation activities. | PL 108–136 Sec 3122 | 564 |
| Removal or security of fissile materials, radiological materials, and related equipment at vulnerable sites. | PL 108–375 Sec 3132(d) | 557 |
| Report submission requirement | PL 106–65 Sec 1308 | 108 |
| Republic of Korea, participation of multinational partners in the United Nations Command. | PL 109–364 Sec 1212 | 546 |
| Research and development coordination. | PL 103–236 Sec 711 | 38 |
| Response to increased missile threat in Asia-Pacific region. | PL 105–261 Sec 1533 | 610 |
| Response to threats of terrorist incidents. | PL 104–201 Sec 1411(b) | 312 |
| Revitalization of ACDA | PL 103–236 Sec 717 | 38 |
| Russian Federation debt reduction for nonproliferation. | PL 107–228 Sec 1321 | 227 |
| Russian nonstrategic nuclear weapons. | PL 105–261 Sec 1504 | 600 |
| Russian Plutonium Disposition program contributions utilization. | PL 109–364 Sec 3114(e) | 548 |
| Russian proliferation to Iran and other countries of concern. | PL 107–314 Sec 1206 | 569 |
| Russian strategic missile detargeting. | PL 105–85 Sec 1301 | 612 |
| Sanctions against use of chemical or biological weapons. | PL 102–182 Sec 307(d) | 356 |
| Secretary of Defense report | PL 110–181 Sec 1306(c) | 55 |
| Security risks of participation by defense contractors in space activities of People's Republic of China. | PL 110–417 Sec 1233(d) | 533 |

| | | |
|---|---|---|
| Reports to Congress—Continued | | |
| Arms control—Continued | | |
| South Asia nuclear and missile nonproliferation. | PL 107–228 Sec 1601(c) | 235 |
| Soviet compliance with agreements | PL 98–525 Sec 1106 | 718 |
| Soviet Union Compliance with Threshold Test Ban Treaty. | PL 100–180 Sec 903 | 703 |
| Special nuclear materials of the former Soviet Union. | PL 102–511 Sec 510 | 158 |
| Standing Consultative Commission | PL 100–213 Sec 3(c) | 41 |
| START and START II Treaties monitoring. | PL 106–113 Sec 1114 | 33 |
| Strategic arms reduction talks agreement. | PL 101–510 Sec 1443 | 679 |
| Strategic nuclear warhead dismantling. | PL 108–136 Sec 1033 | 562 |
| Strategic stability under START III | PL 106–65 Sec 1503 | 597 |
| Studies compilation | PL 87–297 Sec 308 | 16 |
| Technology acquisition relating to weapons of mass destruction and advanced conventional munitions. | PL 104–293 Sec 721 | 305 |
| Transfers of militarily sensitive technology to countries of concern. | PL 106–65 Sec 1402 | 588 |
| Transmission of classified summaries. | PL 105–261 Sec 1502 | 599 |
| Trial investigations and trial visits | PL 106–113 Sec 1124(d) | 253 |
| U.S. counterforce capability | PL 98–525 Sec 1105 | 717 |
| U.S. policy at the Nuclear Suppliers Group to strengthen international nuclear nonproliferation regime. | PL 110–369 Sec 204(c) | 481 |
| United States-India Peaceful Atomic Energy Cooperation Act of 2006. | PL 109–401 Sec 104(g) | 491 |
| Uranium enrichment capacity | PL 95–242 Sec 103 | 383 |
| Verification capabilities study | PL 99–145 Sec 1003 | 713 |
| Verification policy and research and development activities coordination. | PL 100–456 Sec 910 | 699 |
| Weapons-grade uranium and plutonium of the former Soviet Union. | PL 108–136 Sec 3123 | 564 |
| Weapons of mass destruction | | |
| Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism. | PL 110–53 Sec 1857 | 192 |
| Content of reports on U.S. declarations to the IAEA. | PL 109–401 Sec 273 | 204 |
| Control and accountability of materials. | PL 103–337 Sec 1204 | 136 |
| Efforts to promote implementation of additional protocols. | PL 109–401 Sec 274 | 205 |
| IAEA notifications | PL 109–401 Sec 275 | 205 |
| Initial U.S. declaration to the IAEA. | PL 109–401 Sec 271 | 204 |
| Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism strategic plan. | PL 110–53 Sec 1841(f) | 188 |
| Proliferation Security Initiative improvements and authorities. | PL 110–53 Sec 1821 | 181 |
| Revisions to initial U.S. declaration to the IAEA. | PL 109–401 Sec 272 | 204 |
| Ballistic missile defense systems, capabilities of United States and Soviet Union to produce and deploy. | PL 101–189 Sec 1004 | 684 |
| Chairman of the Joint Chiefs of Staff on U.S. non-compliance with strategic arms agreements. | PL 99–661 Sec 1003 | 708 |

| | | |
|---|---|---|
| Reports to Congress—Continued | | |
| Chemical Weapons Convention | | |
| Inspections | PL 105–277 Sec 309 | 287 |
| United States National Authority requirements. | PL 105–277 Sec 401 | 288 |
| Commission to Assess the Ballistic Missile Threat to the United States. | PL 104–201 Sec 1323 | 635 |
| Compliance with existing strategic offensive arms agreements policy. | PL 99–145 Sec 1001(b) | 712 |
| Diplomatic and consular missions, Soviet employees at United States missions in the Soviet Union. | PL 99–93 Sec 136 | 1016 |
| Elimination of impediments to programs | PL 109–163 Sec 1304 | 67 |
| Emergency communications capabilities between United States and Russia. | PL 105–261 Sec 1503 | 600 |
| Export control violations by satellite manufacturers. | PL 106–65 Sec 1412 | 595 |
| Federal Bureau of Investigation | | |
| Chemical Weapons Convention Implementation Act implementation. | PL 106–113 Sec 1117(b) | 34 |
| Haiti | | |
| Human rights | PL 103–423 Sec 4 | 769 |
| U.S. agreements | PL 103–423 Sec 5 | 769 |
| U.S. policy | PL 103–423 Sec 3 | 768 |
| Intercountry adoption | PL 106–279 Sec 104 | 1021 |
| International mine clearing efforts in refugee situations. | PL 102–484 Sec 1364 | 669 |
| International Nonproliferation Initiative | PL 102–511 Sec 509(e) | 157 |
| Iraq | | |
| Authorization for use of military force. | PL 102–1 Sec 3 | 771 |
| Use of military force against | PL 107–243 Sec 4 | 744 |
| Middle East | | |
| Multinational Force and Observers participation. | PL 97–132 Sec 6 | 801 |
| Military commissions | PL 109–366 Sec 3 | 750 |
| Military consequences of elimination of ballistic missiles. | PL 100–180 Sec 905 | 705 |
| MTCR | PL 100–180 Sec 901 | 701 |
| Moratorium on antipersonnel landmines use by Armed Forces. | PL 104–106 Sec 1402 | 637 |
| | PL 105–85 Sec 1309 | 622 |
| Multinational force in Lebanon | PL 98–119 Sec 4 | 777 |
| National emergencies | PL 94–412 Sec 401 | 736 |
| NATO participation | PL 103–447 Sec 205 | 834 |
| Negotiations with the Soviet Union regarding limitations on anti-satellite capabilities. | PL 101–189 Sec 1009 | 688 |
| Nuclear export requirement | PL 105–261 Sec 1523 | 608 |
| Nuclear security initiative | | |
| Comprehensive inventory of Russian tactical weapons. | PL 108–136 Sec 3621(b) | 211 |
| Management assessment of threat reduction and nonproliferation programs. | PL 108–136 Sec 3611(c) | 80 |
| | | 210 |
| Nuclear and radiological security and safety discussions between IAEA and OECD. | PL 108–136 Sec 3631 | 212 |
| United States and NATO cooperation with Russia on ballistic missile defenses. | PL 108–136 Sec 3623 | 211 |
| Nuclear weapons | | |
| Accidental launch protection | PL 101–189 Sec 1005(c) | 686 |
| Alternative strategic nuclear force for the United States under potential START Treaty. | PL 100–456 Sec 908 | 697 |

Reports to Congress—Continued
Nuclear weapons—Continued
Nuclear winter findings and policy implications. PL 98–525 Sec 1107 ..... 718
PL 99–145 Sec 1006 ..... 714
Risk reduction measures ..... PL 101–510 Sec 1441(c) ..... 678
Security issues ..... PL 102–190 Sec 3142 ..... 676
Strategic arms reduction agreement effect on Trident program. PL 101–189 Sec 1001 ..... 592
Strategic nuclear submarine force ... PL 98–525 Sec 1101 ..... 716
Tactical nuclear warheads withdrawal from Europe. PL 98–525 Sec 1104 ..... 717
Testing and test ban readiness program negotiation resumption. PL 102–190 Sec 3140 ..... 675
Theater nuclear weapons and force structure. PL 98–525 Sec 1103 ..... 716
Verification conducted with regard to mobile ICBMs under START agreement. PL 101–189 Sec 1002 ..... 683
Verification of compliance with agreements to limit testing. PL 101–189 Sec 1010 ..... 689
War Powers Resolution ..... PL 93–148 Sec 4 ..... 728
Panama Canal reauthorization ..... PL 100–203 Sec 5418 ..... 921
Panama Canal Treaty ..... PL 96–70 Sec 3301 ..... 916
People's Republic of China
Exporting high-performance computers to. PL 106–65 Sec 1406 ..... 591
Military capabilities ..... PL 104–201 Sec 1305 ..... 627
Satellite export controls ..... PL 105–261 Sec 1515 ..... 605
Technology transmitted to ..... PL 106–65 Sec 1405 ..... 591
Weapons proliferation and policies .. PL 104–201 Sec 1306 ..... 628
Satellites
Survivability ..... PL 101–189 Sec 1008 ..... 687
Technology safeguards ..... PL 106–65 Sec 1409 ..... 592
United States Munitions List export controls. PL 105–261 Sec 1513 ..... 602
Somalia
Involvement of United States Armed Forces. PL 103–160 Sec 1512 ..... 774
Soviet weapons destruction
Emergency airlift authorization ..... PL 102–228 Sec 301 ..... 169
Prior notice of obligations ..... PL 102–228 Sec 231 ..... 169
Space nuclear reactors effect on gamma-ray astronomy missions. PL 101–189 Sec 1012 ..... 690
United Nations
Financial contributions to ..... PL 79–264 Sec 4 ..... 930
War Powers Resolution ..... PL 93–148 Sec 4 ..... 728
Republic of Panama. See Panama Canal Act of 1979
Riot control agents
Renunciation of war use ..... EO 11850 ..... 359
Ronald W. Reagan National Defense Authorization Act, FY 2005. See Cooperative Threat Reduction, FY 2005; National Defense Authorization Act, FY 2005
Russia
Assistance for construction of plutonium storage facility. PL 103–160 Sec 1612 ..... 662
Department of Energy National Security Programs
Elimination of weapons grade plutonium production. PL 107–314 Sec 3151 ..... 86
Emergency communications capabilities with United States, report. PL 105–261 Sec 1503 ..... 600
Nonstrategic nuclear weapons ..... PL 105–261 Sec 1504 ..... 600
START Treaty
Monitoring issues, report ..... PL 106–113 Sec 1114 ..... 33
Strategic missile detargeting, report ..... PL 105–85 Sec 1301 ..... 612

Russian Federation
- Blocking property of the government related to disposition of highly enriched uranium extracted from nuclear weapons. — EO 13159 — 373
- Collaborative measures to reduce the risks of a nuclear weapons launch, report. — PL 108–375 Sec 1214 — 555
- Comprehensive inventory of nonstrategic nuclear weapons, report. — PL 109–163 Sec 3115 — 551
- Joint Data Exchange Center funding limitation. — PL 107–107 Sec 1202 — 574
- Nuclear nonproliferation fellowships for scientists. — PL 108–375 Sec 3134 — 560
- Nuclear security initiative
  - Comprehensive inventory of tactical weapons. — PL 108–136 Sec 3621 — 211
  - Enhanced collaboration for more reliable Russian early warning systems, sense of Congress. — PL 108–136 Sec 3624 — 212
  - Interparliamentary Threat Reduction Working Group establishment. — PL 108–136 Sec 3622 — 211
  - U.S. and NATO cooperation on ballistic missile defenses, sense of Congress. — PL 108–136 Sec 3623 — 211
- Proliferation to Iran and other countries of concern, report. — PL 107–314 Sec 1206 — 569
- Weapons of mass destruction proliferation prevention
  - United States-Russia cooperation and coordination, sense of Congress. — PL 110–53 Sec 1842 — 188

Russian Federation Debt Reduction for Nonproliferation Act of 2002. — PL 107–228 — 221
- Center for an Independent Press and the Rule of Law establishment. — PL 107–228 Sec 1316 — 226
- Congressional consultations — PL 107–228 Sec 1320 — 227
- Debt reduction authority restriction — PL 107–228 Sec 1317 — 226
- Debt reduction with other creditor states, sense of Congress. — PL 107–228 Sec 1318 — 227
- Definitions — PL 107–228 Sec 1313 — 223
- Findings — PL 107–228 Sec 1312(a) — 221
- Purposes — PL 107–228 Sec 1312(b) — 223
- Reduction of Soviet-era debt obligations to the United States authorization. — PL 107–228 Sec 1314 — 224
- Reports to Congress — PL 107–228 Sec 1321 — 227
- Russian Federation Nonproliferation Investment Agreement. — PL 107–228 Sec 1315 — 225
- U.S. policy implementation, sense of Congress. — PL 107–228 Sec 1319 — 227

Russian Plutonium Disposition program
- Contributions utilization — PL 109–364 Sec 3114 — 548


## S


SALT II Treaty. See Strategic Arms Limitation Treaty

Satellites
- Export controls
  - Certification of missile equipment or technology to China. — PL 105–261 Sec 1512 — 602
  - Licensing — PL 106–65 Sec 1404 — 590
  - National security controls on licensing. — PL 105–261 Sec 1514 — 603
  - People's Republic of China launching, report. — PL 105–261 Sec 1515 — 605

| | | |
|---|---|---|
| Satellites—Continued | | |
| Export controls—Continued | | |
| Related items defined | PL 105–261 Sec 1516 | 606 |
| Sense of Congress | PL 105–261 Sec 1511 | 601 |
| United States Munitions List | PL 105–261 Sec 1513 | 602 |
| Violations by manufacturers | PL 106–65 Sec 1412 | 595 |
| License applications, enhanced intelligence consultation. | PL 106–65 Sec 1411 | 594 |
| Licensing decisions for commercial launch, timely notification by the Department of State. | PL 106–65 Sec 1410 | 594 |
| Negotiations with the Soviet Union regarding limitations on anti-satellite capabilities, report. | PL 101–189 Sec 1009 | 688 |
| Survivability, report | PL 101–189 Sec 1008 | 687 |
| Saudi Arabia | | |
| Arms sales restriction | PL 102–229 Sec 104 | 173 |
| Scholars. See Visiting scholars program | | |
| Secretary of Defense. See also Defense, Department of | | |
| Cooperative threat reduction report | PL 110–181 Sec 1306(c) | 55 |
| Detention, treatment and trial of certain non-citizens in the war against terrorism | | |
| Authorities | Mil Ord Nov. 13, 2001 Sec 6 | 762 |
| Detention authority | Mil Ord Nov. 13, 2001 Sec 3 | 760 |
| Obligation of other agencies to assist. | Mil Ord Nov. 13, 2001 Sec 5 | 761 |
| Trials authority | Mil Ord Nov. 13, 2001 Sec 4 | 761 |
| Panama Canal responsibilities | EO 12215 Sec 1–1 | 922 |
| Secretary of State. See also State, Department of | | |
| Assistant Secretaries of State | | |
| Arms control verification and compliance. | PL 106–113 Sec 1112 | 32 |
| Intercountry adoption | | |
| Oversight of accreditation or approval. | PL 106–279 Sec 204 | 1027 |
| Responsibilities | PL 106–279 Sec 102 | 1019 |
| Security | | |
| Controls on satellite export licensing | PL 105–261 Sec 1514 | 603 |
| Detection equipment procurement for U.S. border security. | PL 104–201 Sec 1421 | 317 |
| Exports | | |
| High-performance computers to People's Republic of China, report. | PL 106–65 Sec 1406 | 591 |
| Release of information by Department of Commerce to other agencies. | PL 105–261 Sec 1522 | 608 |
| Haiti | | |
| Presidential statement of objectives | PL 103–423 Sec 2 | 767 |
| Prohibition on transfer of classified national security information to the International Criminal Court. | PL 107–206 Sec 2006 | 789 |
| Southeast Asia | | |
| Tonkin Gulf Resolution | PL 88–408 | 806 |
| Security Assistance Act of 1999. See Proliferation Prevention Enhancement Act of 1999 | | |
| Security Assistance Act of 2002 | | |
| Key Verification Assets Fund | PL 107–228 Sec 1102 | 28 |
| Personnel appropriations | PL 107–228 Sec 1101(b) | 28 |
| Verification and compliance appropriations. | PL 107–228 Sec 1101(a) | 28 |
| Sensitive Compartmented Information Facility | | |
| Verification and compliance appropriations. | PL 107–228 Sec 1101(a) | 28 |

| | | |
|---|---|---|
| Servicemembers' Protection Act of 2002 | PL 107–206 | 783 |
| Alliance command arrangements | PL 107–206 Sec 2009 | 791 |
| Assistance to international efforts | PL 107–206 Sec 2015 | 794 |
| Authority to free members of the United States Armed Forces detained or imprisoned by the International Criminal Court. | PL 107–206 Sec 2008 | 790 |
| Constitutional authorities exercise | PL 107–206 Sec 2011 | 791 |
| Cooperation with the International Criminal Court prohibition. | PL 107–206 Sec 2004 | 787 |
| Definitions | PL 107–206 Sec 2013 | 792 |
| Findings | PL 107–206 Sec 2002 | 783 |
| Nondelegation | PL 107–206 Sec 2012 | 792 |
| Prohibition on transfer of classified national security information to the International Criminal Court. | PL 107–206 Sec 2006 | 789 |
| Restriction on U.S. participation in certain U.N. peacekeeping operations. | PL 107–206 Sec 2005 | 788 |
| Waiver and termination of prohibitions | PL 107–206 Sec 2003 | 785 |
| Withholdings | PL 107–206 Sec 2010 | 791 |
| Silk Road Initiative | | |
| Defined | PL 108–375 Sec 3133(b) | 560 |
| Funding | PL 108–375 Sec 3133(c) | 560 |
| Program authorization | PL 108–375 Sec 3133(a) | 559 |
| Sinai | | |
| Implementing the U.S. Proposal for the Early-Warning System in Sinai. | PL 94–110 | 804 |
| Somalia | | |
| Authorization for use of military force | PL 103–139 Sec 8151 | 772 |
| Involvement of United States Armed Forces policy. | PL 103–160 Sec 1512 | 774 |
| South Asia | | |
| Nuclear and missile nonproliferation | PL 107–228 Sec 1601 | 234 |
| Nuclear tests, sense of Congress | PL 105–261 Sec 1532 | 609 |
| Southeast Asia | | |
| Tonkin Gulf Resolution | PL 88–408 | 806 |
| Soviet Nuclear Threat Reduction Act of 1991 | PL 102–228 | 166 |
| Weapons destruction | | |
| Administration of program | PL 102–228 Sec 221 | 167 |
| Authorization of program | PL 102–228 Sec 212 | 167 |
| Dire emergency supplemental appropriations. | PL 102–228 Sec 223 | 169 |
| Emergency airlift authorization | PL 102–228 Sec 301 | 169 |
| Prior notice of obligations to Congress. | PL 102–228 Sec 231 | 169 |
| Repayment arrangements | PL 102–228 Sec 222 | 168 |
| Reporting requirements | PL 102–228 Sec 302 | 171 |
| Soviet Nuclear Threat Reduction Appropriations, FY 1992. | PL 102–229 | 173 |
| Arms sales restriction to Saudi Arabia and Kuwait. | PL 102–229 Sec 104 | 173 |
| Congressional designation of emergency | PL 102–229 Sec 202 | 176 |
| Funds transfer | PL 102–229 Sec 108 | 174 |
| | PL 102–229 Sec 109 | 175 |
| United States recognition of Ukrainian independence, sense of the Senate. | PL 102–229 Sec 204 | 176 |
| Soviet Union. See also States of the former Soviet Union | | |
| Ballistic missile defense systems, capability to produce and deploy, report. | PL 101–189 Sec 1004 | 684 |
| Compliance with arms control agreements, report. | PL 98–525 Sec 1106 | 718 |
| Compliance with Threshold Test Ban Treaty, report. | PL 100–180 Sec 903 | 703 |
| Space science | | |
| International Space Station | | |
| Restriction on extraordinary payments. | PL 106–178 Sec 6 | 244 |

| | | |
|---|---|---|
| Space science—Continued | | |
| Proliferation of space launch vehicle technologies, sense of Congress. | PL 103–160 Sec 1614 | 664 |
| Security risks of participation by defense contractors in activities of People's Republic of China. | PL 110–417 Sec 1233 | 532 |
| Space nuclear reactors effect on gamma-ray astronomy missions, report. | PL 101–189 Sec 1012 | 690 |
| Special Representatives of the President | PL 87–297 Sec 201 | 9 |
| Spence National Defense Authorization Act, FY 2001. See Cooperative Threat Reduction, FY 2001; National Defense Authorization Act, FY 2001 | | |
| START Treaties | | |
| Alternative strategic nuclear force for the United States. | PL 100–456 Sec 908 | 697 |
| Effect on Trident program, report | PL 101–189 Sec 1001 | 682 |
| Funds use limitation | PL 105–85 Sec 1404 | 121 |
| Modernization | PL 101–510 Sec 1442 | 679 |
| Monitoring issues, report | PL 106–113 Sec 1114 | 33 |
| Ratification, sense of Congress | PL 104–106 Sec 1406 | 640 |
| Sense of Congress | PL 100–456 Sec 902 | 695 |
| | PL 101–189 Sec 1003 | 683 |
| Strategic nuclear delivery systems, limitation on retirement or dismantlement. | PL 104–106 Sec 1404 | 638 |
| | PL 104–201 Sec 1302 | 625 |
| | PL 105–85 Sec 1302 | 613 |
| Strategic stability under START III, report. | PL 106–65 Sec 1503 | 597 |
| Verification conducted with regard to mobile ICBMs, report. | PL 101–189 Sec 1002 | 683 |
| State, Department of. See also Department of State Authorization Act, FY 2003; Secretary of State | | |
| Authorization for communication of restricted Atomic Energy Commission data. | EO 11057 | 526 |
| Chemical Weapons Convention implementation. | EO 13128 | 371 |
| Defense trade control licensing procedures acceleration. | PL 106–113 Sec 1255 | 259 |
| Licensing decisions for commercial satellite launch, timely notification of. | PL 106–65 Sec 1410 | 594 |
| States of the former Soviet Union. See also Soviet Union | | |
| Cooperative threat reduction | | |
| Activities and assistance, reports | PL 106–398 Sec 1308 | 98 |
| Appropriate congressional committees defined. | PL 103–160 Sec 1208 | 147 |
| Appropriations request summary submission requirement. | PL 105–261 Sec 1307 | 115 |
| Audits, report | PL 106–398 Sec 1311 | 102 |
| Authorization for additional FY 1993 assistance. | PL 103–160 Sec 1209 | 148 |
| Biological research restrictions | PL 108–136 Sec 1304 | 75 |
| Biological weapons programs in Russia, report. | PL 105–261 Sec 1308 | 116 |
| Biological weapons proliferation prevention, National Academy of Sciences study. | PL 110–181 Sec 1308 | 56 |
| Certification on use of facilities | PL 108–136 Sec 1307 | 77 |
| Chemical weapons destruction at Shchuch'ye, Russia, report. | PL 110–181 Sec 1307 | 55 |
| Chemical weapons destruction facility | | |
| Funds use limitation | PL 104–106 Sec 1209 | 134 |
| In Russia, funding limitation waiver. | PL 108–136 Sec 1306 | 77 |

States of the former Soviet Union—Continued
Cooperative threat reduction—Continued
Chemical weapons elimination ..... PL 106–398 Sec 1309 ..... 101
Cooperative counter proliferation program. PL 105–261 Sec 1306 ..... 114
Demilitarization Enterprise Fund .... PL 103–160 Sec 1204 ..... 145
Elimination of impediments to programs, report. PL 109–163 Sec 1304 ..... 67
Expanded Threat Reduction Initiative, report. PL 106–65 Sec 1309 ..... 108
Findings ..... PL 103–160 Sec 1202 ..... 143
Funding allocations ..... PL 104–106 Sec 1202 ..... 130
PL 104–201 Sec 1502 ..... 126
PL 105–85 Sec 1402 ..... 119
PL 105–261 Sec 1302 ..... 111
PL 106–65 Sec 1302 ..... 105
PL 106–398 Sec 1302 ..... 95
PL 107–107 Sec 1302 ..... 90
PL 107–314 Sec 1302 ..... 82
PL 108–136 Sec 1302 ..... 73
PL 108–375 Sec 1302 ..... 70
PL 109–163 Sec 1302 ..... 66
PL 109–364 Sec 1302 ..... 62
PL 110–181 Sec 1302 ..... 52
PL 110–417 Sec 1302 ..... 48
Funding authorization, FY 1994 ..... PL 103–160 Sec 1205 ..... 146
Funding limitations ..... PL 103–337 Sec 1206 ..... 136
Funds availability ..... PL 104–201 Sec 1505 ..... 128
Funds obligation, prior notice to Congress requirement. PL 103–160 Sec 1206 ..... 147
PL 104–106 Sec 1205 ..... 132
Funds use authority ..... PL 108–136 Sec 1308 ..... 78
Funds use limitation
Biological weapons proliferation prevention. PL 105–261 Sec 1305 ..... 113
Chemical weapons destruction .. PL 105–85 Sec 1406 ..... 121
PL 105–261 Sec 1304 ..... 112
Chemical weapons destruction facility. PL 105–85 Sec 1405 ..... 121
Construction activities ..... PL 107–107 Sec 1306 ..... 92
Construction of fossil fuel energy plants, report. PL 106–398 Sec 1307 ..... 97
Elimination of conventional weapons. PL 106–398 Sec 1303 ..... 96
Elimination of Weapons Grade Plutonium Program. PL 106–398 Sec 1310 ..... 102
Fissile material storage facility PL 105–85 Sec 1407 ..... 122
PL 106–65 Sec 1304 ..... 107
PL 106–398 Sec 1304 ..... 97
PL 107–107 Sec 1305 ..... 92
PL 107–314 Sec 1305 ..... 84
START II Treaty ..... PL 105–85 Sec 1404 ..... 121
Until certification submission ... PL 106–65 Sec 1310 ..... 108
Until report submission ..... PL 106–65 Sec 1306 ..... 107
PL 107–107 Sec 1303 ..... 92
PL 107–314 Sec 1303 ..... 84
Warhead dismantlement processing. PL 106–398 Sec 1305 ..... 97
Weapons storage security ..... PL 105–85 Sec 1408 ..... 122
Funds use limitation until report submission. PL 104–201 Sec 1504 ..... 127
Funds use prohibition ..... PL 104–201 Sec 1503 ..... 127

States of the former Soviet Union—Continued
Cooperative threat reduction—Continued
Funds use prohibition—Continued
PL 105–85 Sec 1403 ..... 120
PL 105–261 Sec 1303 ..... 112
PL 106–65 Sec 1303 ..... 106
Limited waiver of restrictions on use of funds. PL 107–314 Sec 1306 ..... 84
New initiatives
Funding ..... PL 110–181 Sec 1306(d) ..... 55
National Academy of Sciences study. PL 110–181 Sec 1306(b) ..... 55
Secretary of Defense report ..... PL 110–181 Sec 1306(c) ..... 55
Sense of Congress ..... PL 110–181 Sec 1306(a) ..... 54
Nonstrategic nuclear arms, sense of Congress. PL 106–65 Sec 1312 ..... 109
Nuclear arsenal dismantlement, sense of Congress. PL 103–337 Sec 1209 ..... 140
Nuclear weapons scientists, limitation on assistance. PL 104–106 Sec 1207 ..... 133
Nuclear weapons storage sites agreement. PL 106–398 Sec 1306 ..... 97
Offensive biological warfare program, report. PL 103–337 Sec 1207 ..... 137
Offensive biological warfare program funds limitation. PL 104–106 Sec 1208 ..... 133
On-site manager requirements ..... PL 108–136 Sec 1305 ..... 76
Payment of taxes, duties, and other assessments on assistance, report. PL 105–85 Sec 1409 ..... 123
Peacekeeping activities funds use prohibition. PL 104–106 Sec 1203 ..... 132
Permit requirements ..... PL 108–136 Sec 1303 ..... 74
Program assistance, sense of Congress. PL 104–201 Sec 1453 ..... 323
Program coordination ..... PL 103–337 Sec 1208 ..... 140
Programs ..... PL 103–337 Sec 1201 ..... 136
Programs authorization ..... PL 103–160 Sec 1203 ..... 143
Purchase of low-enriched uranium derived from Russian highly enriched uranium, sense of Congress. PL 104–201 Sec 1454 ..... 323
Report submission requirement ..... PL 106–65 Sec 1308 ..... 108
Restrictions on assistance repeal ..... PL 110–181 Sec 1304 ..... 53
Revenue use requirement ..... PL 107–107 Sec 1304 ..... 92
Russian nonstrategic nuclear arms, sense of Congress. PL 106–65 Sec 1312 ..... 109
Specification of programs ..... PL 104–106 Sec 1201 ..... 130
PL 104–201 Sec 1501 ..... 125
Specification of programs and funds PL 105–85 Sec 1401 ..... 119
PL 105–261 Sec 1301 ..... 111
PL 106–65 Sec 1301 ..... 105
PL 106–398 Sec 1301 ..... 95
PL 107–107 Sec 1301 ..... 90
PL 107–314 Sec 1301 ..... 82
PL 108–136 Sec 1301 ..... 73
PL 108–375 Sec 1301 ..... 70
PL 109–163 Sec 1301 ..... 66
PL 109–364 Sec 1301 ..... 62
PL 110–181 Sec 1301 ..... 52
Use of revenue generated by activities. PL 107–107 Sec 1304 ..... 92
Weapons destruction assistance authority. PL 104–106 Sec 1204 ..... 132

States of the former Soviet Union—Continued
Cooperative threat reduction—Continued
Weapons of mass destruction
Control and accountability of materials, report. PL 103–337 Sec 1204 ..... 136
Proliferation and terrorism prevention, repeal and modification of assistance limitations. PL 110–53 Sec 1811 ..... 58
Report on individuals with expertise. PL 105–261 Sec 1309 ..... 117
Diplomatic and consular missions, Soviet employees at United States missions in the Soviet Union. PL 99–93 Sec 136 ..... 1016
Exchange of high-ranking military and civilian personnel pilot program. PL 99–145 Sec 1005 ..... 714
Former Soviet Union Demilitarization Act of 1992. PL 102–484 ..... 161
Administration of programs ..... PL 102–484 Sec 1421 ..... 164
Authorization of programs ..... PL 102–484 Sec 1412 ..... 162
Findings ..... PL 102–484 Sec 1411 ..... 161
INF Treaty
On-Site Inspection Agency, establishment and responsibilities of. PL 87–297 Sec 501 ..... 24
Negotiations regarding limitations on anti-satellite capabilities, report. PL 101–189 Sec 1009 ..... 688
Nonproliferation and disarmament activities
Authorization ..... PL 102–511 Sec 503(a) ..... 150
Defense funds use ..... PL 102–511 Sec 503(c) ..... 151
Funding priorities ..... PL 102–511 Sec 503(b) ..... 151
Nuclear risk reduction centers establishment, sense of Congress. PL 98–525 Sec 1108 ..... 719
Nuclear weapons reduction policy ..... PL 102–484 Sec 1321 ..... 666
Nuclear winter consequences, joint study proposal. PL 99–93 Sec 708 ..... 46
Peaceful Nuclear Explosions Treaty
On-Site Inspection Agency responsibilities. PL 87–297 Sec 501 ..... 25
Research and Development Foundation
Establishment of ..... PL 102–511 Sec 511(a) ..... 158
Functions ..... PL 102–511 Sec 511(c) ..... 159
Funding ..... PL 102–511 Sec 511(d) ..... 159
Purposes ..... PL 102–511 Sec 511(b) ..... 158
Science and technology centers
Funding ..... PL 106–113 Sec 1138 ..... 256
Research and exchange activities .... PL 106–113 Sec 1139 ..... 256
Securing nuclear weapons, material and expertise. PL 107–107 Sec 1205 ..... 575
Special nuclear materials, report ..... PL 102–511 Sec 510 ..... 158
START Treaty
Monitoring issues, report ..... PL 106–113 Sec 1114 ..... 33
Threshold Test Ban Treaty
On-Site Inspection Agency responsibilities. PL 87–297 Sec 501 ..... 25
United States-Soviet negotiations on reduction in nuclear arms, sense of Congress. PL 99–145 Sec 1004 ..... 714
Use of international nuclear materials protection and cooperation program funds use outside the former Soviet Union. PL 108–136 Sec 3124 ..... 565
Weapons destruction funding ..... PL 102–511 Sec 506 ..... 153
Weapons-grade uranium and plutonium, study and report. PL 108–136 Sec 3123 ..... 564

| | | |
|---|---|---|
| Strategic Arms Limitation Treaty | | |
| Compliance, sense of Congress | PL 99–661 Sec 1001 | 707 |
| Strategic Arms Reduction Treaty. See START Treaties | | |
| Strom Thurmond National Defense Authorization Act, FY 1999. See Cooperative Threat Reduction, FY 1999; National Defense Authorization Act, FY 1999 | | |
| Stump National Defense Authorization Act, FY 2003. See Cooperative Threat Reduction, FY 2003; National Defense Authorization Act, FY 2003 | | |
| Support of peaceful settlement of disputes | EO 10206 | 972 |
| Syria | | |
| Iran, North Korea and Syria Nonproliferation Act. | PL 106–178 | 238 |
| Application of measures to certain foreign persons. | PL 106–178 Sec 3 | 240 |
| Definitions | PL 106–178 Sec 7 | 247 |
| Exemption from measures | PL 106–178 Sec 5 | 242 |
| International Space Station restriction on extraordinary payments. | PL 106–178 Sec 6 | 244 |
| Procedures if measures are not applied. | PL 106–178 Sec 4 | 242 |
| Reports | PL 106–178 Sec 2 | 239 |


## T


| | | |
|---|---|---|
| Taiwan. See also American Institute in Taiwan | | |
| American Institute in Taiwan Facilities Enhancement Act | | |
| Appropriations authorization | PL 106–212 Sec 3 | 850 |
| Findings | PL 106–212 Sec 2 | 850 |
| Maintaining unofficial relations with the people of Taiwan. | EO 13014 | 852 |
| Delegation and reservation of functions. | EO 13014 Sec 1 | 852 |
| Presidential Memorandum of December 30, 1978. | EO 13014 Sec 3 | 853 |
| Specification of laws and determinations. | EO 13014 Sec 2 | 852 |
| Participation in WHO | PL 108–235 Sec 1 | 847 |
| Taiwan Relations Act | PL 96–8 | 837 |
| American Institute in Taiwan | | |
| Appropriations authorization | PL 96–8 Sec 16 | 846 |
| Congressional oversight | PL 96–8 Sec 14 | 845 |
| Definitions | PL 96–8 Sec 15 | 845 |
| Furnishing property and services and obtaining services from. | PL 96–8 Sec 9 | 842 |
| Reporting requirement | PL 96–8 Sec 12 | 844 |
| Rules and regulations | PL 96–8 Sec 13 | 845 |
| Separation of government personnel for employment. | PL 96–8 Sec 11 | 843 |
| Services to United States citizens on Taiwan. | PL 96–8 Sec 7 | 841 |
| Severability of provisions | PL 96–8 Sec 17 | 846 |
| Taiwan instrumentality | PL 96–8 Sec 10 | 842 |
| Tax exempt status | PL 96–8 Sec 8 | 841 |
| U.S. policy | PL 96–8 Sec 6 | 841 |
| Application of laws and international agreements. | PL 96–8 Sec 4 | 838 |
| Findings and declaration of policy | PL 96–8 Sec 2 | 837 |
| Implementation of U.S. policy | PL 96–8 Sec 3 | 838 |
| OPIC | PL 96–8 Sec 5 | 840 |

| | | |
|---|---|---|
| Terrorism. See also War powers | | |
| Advisory panel to assess domestic response capabilities. | PL 105–261 Sec 1405 | 297 |
| Authorization for use of military force in response to terrorist attacks of September 11, 2001. | PL 107–40 | 746 |
| Chemical, biological, radiological, nuclear and high-yield explosives response team. | PL 104–201 Sec 1414 | 313 |
| Detention, treatment and trial of certain non-citizens in the war against terrorism. | Mil Ord Nov. 13, 2001 | 759 |
| Definition | Mil Ord Nov. 13, 2001 Sec 2 | 760 |
| Findings | Mil Ord Nov. 13, 2001 Sec 1 | 759 |
| Policy | Mil Ord Nov. 13, 2001 Sec 2 | 760 |
| Relationship to other law and forums. | Mil Ord Nov. 13, 2001 Sec 7 | 762 |
| Secretary of Defense | | |
| Authorities | Mil Ord Nov. 13, 2001 Sec 6 | 762 |
| Detention authority | Mil Ord Nov. 13, 2001 Sec 3 | 760 |
| Obligation of other agencies to assist. | Mil Ord Nov. 13, 2001 Sec 5 | 761 |
| Trials authority | Mil Ord Nov. 13, 2001 Sec 4 | 761 |
| Domestic preparedness for response to threats of use of weapons of mass destruction. | PL 105–261 Sec 1402 | 296 |
| Emergency preparedness testing for nuclear, radiological, chemical and biological weapons. | PL 104–201 Sec 1415 | 313 |
| Geneva Conventions Common Article 3 interpretation as applied to a program of detention and interrogation. | EO 13440 | 764 |
| Assignment of function | EO 13440 Sec 4 | 766 |
| Definitions | EO 13440 Sec 2 | 764 |
| Determinations | EO 13440 Sec 1 | 764 |
| Program compliance | EO 13440 Sec 3 | 765 |
| Provisions | EO 13440 Sec 5 | 766 |
| Military commissions | | |
| Trial of alien unlawful enemy combatants. | EO 13425 | 763 |
| Military Commissions Act of 2006 | PL 109–366 | 747 |
| Annual report | PL 109–366 Sec 3 | 750 |
| Authorities | PL 109–366 Sec 3 | 748 |
| Construction of provisions | PL 109–366 Sec 3 | 748 |
| Crimes triable by commissions | PL 109–366 Sec 3 | 750 |
| Definitions | PL 109–366 Sec 3 | 747 |
| Geneva Conventions | PL 109–366 Sec 3 | 749 |
| Implementation of treaty obligations. | PL 109–366 Sec 6 | 756 |
| Inapplicability of provisions | PL 109–366 Sec 3 | 749 |
| Jurisdiction of commissions | PL 109–366 Sec 3 | 749 |
| Persons subject to commissions | PL 109–366 Sec 3 | 749 |
| Purpose | PL 109–366 Sec 3 | 748 |
| Status of commissions | PL 109–366 Sec 3 | 749 |
| Treatment of rulings and precedents. | PL 109–366 Sec 3 | 749 |
| Treaty obligations not establishing grounds for certain claims. | PL 109–366 Sec 5 | 756 |
| National emergencies | | |
| Construction authority | EO 13235 | 739 |
| Declaration by reason of terrorist attacks. | Proclamation 7463 | 738 |

| | | |
|---|---|---|
| Terrorism—Continued | | |
| 9/11 Commission recommendations | | |
| Weapons of mass destruction proliferation and terrorism prevention | | |
| Assistance to accelerate programs. | PL 110–53 Sec 1831 | 58 |
| | | 184 |
| | PL 110–53 Sec 1832 | 58 |
| | | 184 |
| | PL 110–53 Sec 1833 | 60 |
| | | 185 |
| Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism. | PL 110–53 Sec 1851 | 188 |
| | PL 110–53 Sec 1852 | 188 |
| | PL 110–53 Sec 1853 | 189 |
| | PL 110–53 Sec 1854 | 189 |
| | PL 110–53 Sec 1855 | 190 |
| | PL 110–53 Sec 1856 | 191 |
| | PL 110–53 Sec 1857 | 192 |
| | PL 110–53 Sec 1858 | 192 |
| | PL 110–53 Sec 1859 | 192 |
| Definitions | PL 110–53 Sec 1802 | 179 |
| Findings | PL 110–53 Sec 1801 | 58 |
| | | 179 |
| Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism. | PL 110–53 Sec 1841 | 185 |
| Proliferation Security Initiative | PL 110–53 Sec 1821 | 181 |
| | PL 110–53 Sec 1822 | 183 |
| Repeal and modification of assistance limitations. | PL 110–53 Sec 1811 | 58 |
| | | 180 |
| United States-Russia cooperation and coordination, sense of Congress. | PL 110–53 Sec 1842 | 188 |
| Nuclear, chemical and biological emergency response. | PL 104–201 Sec 1413 | 312 |
| Nuclear terrorism prevention | | |
| Annual report | PL 110–181 Sec 3134 | 542 |
| Definitions | PL 110–181 Sec 3131 | 540 |
| Minimum security standard for nuclear weapons and formula quantities of strategic special nuclear material. | PL 110–181 Sec 3133 | 541 |
| Sense of Congress | PL 110–181 Sec 3132 | 541 |
| Response to threats of use of weapons of mass destruction. | PL 104–201 Sec 1411 | 311 |
| Threat and risk assessments | PL 105–261 Sec 1404 | 297 |
| Threshold Test Ban Treaty | | |
| On-Site Inspection Agency responsibilities. | PL 87–297 Sec 501 | 25 |
| Thurmond National Defense Authorization Act, FY 1999. See Cooperative Threat Reduction, FY 1999; National Defense Authorization Act, FY 1999 | | |
| Tonkin Gulf Resolution | PL 88–408 | 806 |
| Treaties. See International agreements | | |
| Treaty on Conventional Armed Forces in Europe | | |
| Sense of Congress | PL 105–277 Sec 2704 | 819 |

## U


U.N. peacekeeping forces in the Middle East
U.S. payments authorization ..... PL 94–37 ..... 969
Ukraine
Cooperative threat reduction
Funding allocations ..... PL 110–417 Sec 1302 ..... 48
Designation as eligible to receive NATO assistance. PL 110–17 Sec 4 ..... 814
U.S. recognition of independence, sense of the Senate. PL 102–229 Sec 204 ..... 176
UNESCO. See United Nations Educational, Scientific and Cultural Organization
UNICEF. See United Nations Children's Fund
Union of Soviet Socialist Republics. See Soviet Union
United Nations
Counterproliferation
Extension of authority for support of Special Commission on Iraq. PL 105–261 Sec 1531 ..... 609
Department of State efforts to place U.S. citizens in positions of employment. PL 107–228 Sec 409 ..... 948
Diplomatic privileges to the Permanent Observer Mission of the Holy See. PL 109–472 Sec 7 ..... 987
Haiti
Mission transition ..... PL 103–423 Sec 6 ..... 769
Peacekeeping activities
Restriction on U.S. participation in certain operations. PL 107–206 Sec 2005 ..... 788
Promotion of sound financial practices ... PL 107–228 Sec 404 ..... 946
Provisions in Foreign Relations Authorization Acts. Note ..... 968
Republic of Korea
Participation of multinational partners in the United Nations Command, report. PL 109–364 Sec 1212 ..... 546
Response to resolution on Zionism ..... Note ..... 970
Secret ballot use ..... PL 107–228 Sec 406 ..... 947
Support of inspection and monitoring of Iraqi weapons activities. PL 106–65 Sec 1505 ..... 598
PL 106–398 Sec 1201 ..... 580
PL 107–107 Sec 1203 ..... 575
PL 107–314 Sec 1204 ..... 568
Support of peaceful settlement of disputes. EO 10206 ..... 972
U.S. membership on Commission on Human Rights and International Narcotics Control Board. PL 107–228 Sec 408 ..... 947
United Nations Children's Fund
Child health revolution ..... PL 98–198 ..... 1046
United Nations Educational, Scientific and Cultural Organization
Membership of United States, sense of Congress. PL 107–228 Sec 407 ..... 947
United Nations Environment Program Participation Act of 1973
Appropriations authorization ..... PL 93–188 ..... 971
United Nations Headquarters Agreement Act. PL 80–357 ..... 961
United Nations Industrial Development Organization
Immunities, exemptions and privileges .. PL 79–291 Sec 12 ..... 980
Prohibition on payments ..... PL 106–113 Sec 952 ..... 960
United Nations Participation Act of 1945 ..... PL 79–264 ..... 927
Activities authorization ..... PL 79–264 Sec 7 ..... 937
Appropriations authorization ..... PL 79–264 Sec 8 ..... 939

| | | |
|---|---|---|
| United Nations Participation Act of 1945—Continued | | |
| Limitation on U.S. share of assessments for the regular budget. | PL 79–264 Sec 11 | 944 |
| Living quarters for representatives | PL 79–264 Sec 9 | 940 |
| Reimbursement for goods and services provided by the United States. | PL 79–264 Sec 10 | 941 |
| Report requirements | PL 79–264 Sec 4 | 930 |
| Security Council | | |
| Measures | PL 79–264 Sec 5 | 935 |
| Negotiations | PL 79–264 Sec 6 | 937 |
| U.S. representatives | | |
| Appointment | PL 79–264 Sec 2 | 927 |
| Responsibilities | PL 79–264 Sec 3 | 929 |
| United Nations Reform Act of 1999 | PL 106–113 | 949 |
| Appropriations authorization | PL 106–113 Sec 911 | 950 |
| Assessments reform certification requirements. | PL 106–113 Sec 931 | 954 |
| Budget reform certification requirements | PL 106–113 Sec 941 | 955 |
| Definitions | PL 106–113 Sec 902 | 949 |
| Forgiveness of amounts owed to the United States. | PL 106–113 Sec 913 | 952 |
| Obligation and expenditure of funds | PL 106–113 Sec 912 | 951 |
| Peacekeeping operations reform certification requirements. | PL 106–113 Sec 931 | 954 |
| Personnel reform certification requirements. | PL 106–113 Sec 941 | 955 |
| Prohibition on payments relating to UNIDO and other organizations from which the United States has withdrawn or rescinded funding. | PL 106–113 Sec 952 | 960 |
| Statutory construction on relation to existing laws. | PL 106–113 Sec 951 | 959 |
| U.S. sovereignty certification requirements. | PL 106–113 Sec 921 | 953 |
| United States Additional Protocol Implementation Act. | PL 109–401 | 193 |
| Appropriations authorization | PL 109–401 Sec 281 | 205 |
| Authority | PL 109–401 Sec 211 | 196 |
| Complementary access | | |
| Authority requirement | PL 109–401 Sec 221 | 196 |
| Consents and warrants | PL 109–401 Sec 223 | 198 |
| Procedures for | PL 109–401 Sec 222 | 197 |
| Prohibited acts | PL 109–401 Sec 224 | 199 |
| Confidentiality of information | PL 109–401 Sec 231 | 199 |
| Definitions | PL 109–401 Sec 203 | 194 |
| Enforcement | PL 109–401 Sec 243 | 202 |
| Environmental sampling | | |
| National security exclusion application. | PL 109–401 Sec 252 | 202 |
| Notification to Congress of IAEA Board approval. | PL 109–401 Sec 251 | 202 |
| Rule of construction | PL 109–401 Sec 254 | 203 |
| Findings | PL 109–401 Sec 202 | 193 |
| IAEA inspections and visits | PL 109–401 Sec 262 | 204 |
| Penalties | PL 109–401 Sec 242 | 200 |
| Protection of national security information. | PL 109–401 Sec 261 | 203 |
| Recordkeeping violations | PL 109–401 Sec 241 | 200 |
| Reports | | |
| Content of reports on U.S. declarations. | PL 109–401 Sec 273 | 204 |
| Efforts to promote implementation of additional protocols. | PL 109–401 Sec 274 | 205 |
| IAEA notifications | PL 109–401 Sec 275 | 205 |
| Initial U.S. declaration | PL 109–401 Sec 271 | 204 |
| Revisions | PL 109–401 Sec 272 | 204 |

| | | |
|---|---|---|
| United States Additional Protocol Implementation Act—Continued | | |
| Severability | PL 109–401 Sec 204 | 196 |
| United States and India cooperation | | |
| Congressional approval | PL 109–401 Sec 104 | 485 |
| United States Armed Forces in Somalia | | |
| Policy | PL 103–160 Sec 1512 | 774 |
| United States Arms Control and Disarmament Agency | | |
| Appropriations authorization | PL 105–277 Sec 2601 | 36 |
| United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism | | |
| Annual report on strategic plan | PL 110–53 Sec 1841(f) | 188 |
| Consultation with Commission | PL 110–53 Sec 1841(e) | 188 |
| Duties | PL 110–53 Sec 1841(c) | 186 |
| Establishment of | PL 110–53 Sec 1841(a) | 185 |
| Officers | PL 110–53 Sec 1841(b) | 185 |
| Staff | PL 110–53 Sec 1841(d) | 187 |
| United States-Russia cooperation and coordination, sense of Congress. | PL 110–53 Sec 1842 | 188 |
| United States Enrichment Corporation Privatization Act. | PL 104–134 | 502 |
| Definitions | PL 104–134 Sec 3102 | 502 |
| Private corporations | | |
| Establishment | PL 104–134 Sec 3105 | 504 |
| Transfers | PL 104–134 Sec 3106 | 505 |
| United States Enrichment Corporation | | |
| Method of sale | PL 104–134 Sec 3104 | 503 |
| Sale of | PL 104–134 Sec 3103 | 503 |
| Uranium transfers and sales | PL 104–134 Sec 3112 | 505 |
| United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act. | PL 110–369 | 477 |
| Agreement approval | PL 110–369 Sec 101 | 478 |
| Certification requirement | PL 110–369 Sec 102(c) | 479 |
| Definitions | PL 110–369 Sec 2 | 477 |
| Policy declarations | PL 110–369 Sec 102(a) | 478 |
| | PL 110–369 Sec 102(b) | 478 |
| Procedures regarding subsequent reprocessing arrangement. | PL 110–369 Sec 201 | 480 |
| Rule of construction | PL 110–369 Sec 102(d) | 479 |
| Safeguard agreement implementation between India and the IAEA. | PL 110–369 Sec 104 | 479 |
| U.S. policy at the Nuclear Suppliers Group. | PL 110–369 Sec 204 | 480 |
| United States-India Peaceful Atomic Energy Cooperation Act of 2006. | PL 109–401 | 482 |
| Compliance with nuclear nonproliferation treaty obligations. | PL 109–401 Sec 105 | 496 |
| Definitions | PL 109–401 Sec 110 | 497 |
| Inoperability of determination and waivers. | PL 109–401 Sec 106 | 496 |
| MTCR adherent status | PL 109–401 Sec 107 | 496 |
| Policy statements | PL 109–401 Sec 103 | 484 |
| Scientific cooperative nuclear nonproliferation program. | PL 109–401 Sec 109 | 497 |
| Sense of Congress | PL 109–401 Sec 102 | 482 |
| Waiver authority | PL 109–401 Sec 104 | 485 |
| United States Munitions List | | |
| Satellite exports | PL 105–261 Sec 1513 | 602 |
| United States National Authority | | |
| Chemical Weapons Convention implementation. | EO 13128 | 371 |
| Designation of | PL 105–277 Sec 101 | 267 |
| Report requirements | PL 105–277 Sec 401 | 288 |
| United States policy toward Haiti | PL 103–423 | 767 |
| Human rights, report | PL 103–423 Sec 4 | 769 |

| | | |
|---|---|---|
| United States policy toward Haiti—Continued | | |
| Presidential statement of national security objectives. | PL 103–423 Sec 2 | 767 |
| Report | PL 103–423 Sec 3 | 768 |
| U.N. mission transition | PL 103–423 Sec 6 | 769 |
| U.S. agreements, report | PL 103–423 Sec 5 | 769 |
| United States Armed Forces operations, sense of Congress. | PL 103–423 Sec 1 | 767 |
| United States Secret Service | | |
| Protection of foreign diplomatic missions | | |
| Powers, authorities and duties of Uniformed Division. | 18 USC Sec 3056A | 996 |

**V**

| | | |
|---|---|---|
| Vienna Convention. See Diplomatic Relations Act | | |
| Vietnam | | |
| Tonkin Gulf Resolution | PL 88–408 | 806 |
| Visiting scholars program | | |
| Arms control, nonproliferation and disarmament activities. | PL 87–297 Sec 202 | 9 |

**W**

| | | |
|---|---|---|
| War powers | | |
| Authorization for use of military force against Iraq. | PL 102–1 | 770 |
| Authorization for use of United States Armed Forces. | PL 102–1 Sec 2 | 770 |
| Reports | PL 102–1 Sec 3 | 771 |
| Authorization for Use of Military Force Against Iraq Resolution of 2002. | PL 107–243 | 740 |
| Authorization for use of United States Armed Forces. | PL 107–243 Sec 3 | 743 |
| Reports | PL 107–243 Sec 4 | 744 |
| Support for U.S. diplomatic efforts | PL 107–243 Sec 2 | 743 |
| Authorization for use of military force in response to terrorist attacks of September 11, 2001. | PL 107–40 | 746 |
| Authorization for use of military force in Somalia. | PL 103–139 Sec 8151 | 772 |
| Detention, treatment and trial of certain non-citizens in the war against terrorism. | Mil Ord Nov. 13, 2001 | 759 |
| Definition | Mil Ord Nov. 13, 2001 Sec 2 | 760 |
| Findings | Mil Ord Nov. 13, 2001 Sec 1 | 759 |
| Policy | Mil Ord Nov. 13, 2001 Sec 2 | 760 |
| Relationship to other law and forums. | Mil Ord Nov. 13, 2001 Sec 7 | 762 |
| Secretary of Defense | | |
| Authorities | Mil Ord Nov. 13, 2001 Sec 6 | 762 |
| Detention authority | Mil Ord Nov. 13, 2001 Sec 3 | 760 |
| Obligation of other agencies to assist. | Mil Ord Nov. 13, 2001 Sec 5 | 761 |
| Trials authority | Mil Ord Nov. 13, 2001 Sec 4 | 761 |
| Geneva Conventions Common Article 3 interpretation as applied to a program of detention and interrogation. | EO 13440 | 764 |
| Assignment of function | EO 13440 Sec 4 | 766 |
| Definitions | EO 13440 Sec 2 | 764 |
| Determinations | EO 13440 Sec 1 | 764 |
| Program compliance | EO 13440 Sec 3 | 765 |
| Provisions | EO 13440 Sec 5 | 766 |

War powers—Continued
Military commissions
Trial of alien unlawful enemy combatants. EO 13425 763
Military Commissions Act of 2006 PL 109–366 747
Annual report PL 109–366 Sec 3 750
Authorities PL 109–366 Sec 3 748
Construction of provisions PL 109–366 Sec 3 748
Crimes triable by commissions PL 109–366 Sec 3 750
Definitions PL 109–366 Sec 3 747
Geneva Conventions PL 109–366 Sec 3 749
Implementation of treaty obligations PL 109–366 Sec 6 756
Inapplicability of provisions PL 109–366 Sec 3 749
Jurisdiction of commissions PL 109–366 Sec 3 749
Persons subject to commissions PL 109–366 Sec 3 749
Presidential authority to establish military commissions. PL 109–366 Sec 2 747
Purpose PL 109–366 Sec 3 748
Status of commissions PL 109–366 Sec 3 749
Treatment of rulings and precedents PL 109–366 Sec 3 749
Treaty obligations not establishing grounds for certain claims. PL 109–366 Sec 5 756
Multinational Force in Lebanon Resolution. PL 98–119 776
Agreement between the United States and Lebanon, Sept. 25, 1982. 780
Authorization for continued participation of United States Armed Forces. PL 98–119 Sec 3 777
Congressional priority procedures for amendments. PL 98–119 Sec 8 778
Duration of authorization for U.S. participation. PL 98–119 Sec 6 778
Findings and purpose PL 98–119 Sec 2 776
Interpretation of resolution PL 98–119 Sec 7 778
Reports PL 98–119 Sec 4 777
Statements of policy PL 98–119 Sec 5 777
National emergencies
Construction authority EO 13235 739
Declaration by reason of terrorist attacks. Proclamation 7463 738
National Emergencies Act PL 94–412 733
Accountability requirements PL 94–412 Sec 401 736
Declarations of future national emergencies. PL 94–412 Sec 201 733
Exercise of emergency powers and authorities. PL 94–412 Sec 301 735
Repeal and continuation of emergency power. PL 94–412 Sec 501 736
Reporting requirements PL 94–412 Sec 401 736
Terminating existing declared emergencies. PL 94–412 Sec 101 733
United States Armed Forces in Somalia
Policy PL 103–160 Sec 1512 774
United States policy toward Haiti PL 103–423 767
Human rights, report PL 103–423 Sec 4 769
Presidential statement of national security objectives. PL 103–423 Sec 2 767
Report PL 103–423 Sec 3 768
U.N. mission transition PL 103–423 Sec 6 769
U.S. agreements, report PL 103–423 Sec 5 769
United States Armed Forces operations, sense of Congress. PL 103–423 Sec 1 767
War Powers Resolution PL 93–148 727
Congressional action PL 93–148 Sec 5 729
Congressional priority procedures
For concurrent resolution PL 93–148 Sec 7 730

War powers—Continued
War Powers Resolution—Continued
Congressional priority procedures—Continued
For joint resolution or bill ..... PL 93–148 Sec 6 ..... 730
Consultation ..... PL 93–148 Sec 3 ..... 728
Interpretation of joint resolution ..... PL 93–148 Sec 8 ..... 731
Purpose and policy ..... PL 93–148 Sec 2 ..... 727
Reporting ..... PL 93–148 Sec 4 ..... 728
Separability clause ..... PL 93–148 Sec 9 ..... 732
Warner National Defense Authorization Act, FY 2007. See Cooperative Threat Reduction, FY 2007; National Defense Authorization Act, FY 2007
Weapons. See Arms control; Biological weapons; Chemical weapons; Nuclear weapons
Weapons of mass destruction. See also Arms control; Nuclear weapons
Proliferation prevention
Assistance to accelerate programs
Appropriations authorization, 2008. PL 110–53 Sec 1833 ..... 60
..... 185
Appropriations authorization, 2008 and future years. PL 110–53 Sec 1832 ..... 59
..... 184
Statement of policy ..... PL 110–53 Sec 1831 ..... 58
..... 184
Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism
Composition of ..... PL 110–53 Sec 1853 ..... 189
Establishment of ..... PL 110–53 Sec 1851 ..... 188
Funding ..... PL 110–53 Sec 1859 ..... 192
Nonapplicability of Federal Advisory Committee Act. PL 110–53 Sec 1856 ..... 191
Powers of ..... PL 110–53 Sec 1855 ..... 190
Purposes of ..... PL 110–53 Sec 1852 ..... 188
Report ..... PL 110–53 Sec 1857 ..... 192
Responsibilities of ..... PL 110–53 Sec 1854 ..... 189
Termination ..... PL 110–53 Sec 1858 ..... 192
Definitions ..... PL 110–53 Sec 1802 ..... 179
Findings ..... PL 110–53 Sec 1801 ..... 58
..... 178
Office of the United States Coordinator for the Prevention of Weapons of Mass Destruction Proliferation and Terrorism. PL 110–53 Sec 1841 ..... 185
Proliferation Security Initiative
Authority to provide assistance to cooperative countries. PL 110–53 Sec 1822 ..... 183
Improvements and authorities .. PL 110–53 Sec 1821 ..... 181
Repeal and modification of assistance limitations. PL 110–53 Sec 1811 ..... 58
..... 180
United States-Russia cooperation and coordination, sense of Congress. PL 110–53 Sec 1842 ..... 188
United States Additional Protocol Implementation Act. PL 109–401 ..... 193
Appropriations authorization ..... PL 109–401 Sec 281 ..... 205
Authority ..... PL 109–401 Sec 211 ..... 196
Complementary access
Authority requirement ..... PL 109–401 Sec 221 ..... 196
Consents and warrants ..... PL 109–401 Sec 223 ..... 198
Procedures for ..... PL 109–401 Sec 222 ..... 197
Prohibited acts ..... PL 109–401 Sec 224 ..... 199
Confidentiality of information ..... PL 109–401 Sec 231 ..... 199

Weapons of mass destruction—Continued
United States Additional Protocol Implementation Act—Continued
Definitions ..... PL 109–401 Sec 203 ..... 194
Enforcement ..... PL 109–401 Sec 243 ..... 202
Environmental sampling
National security exclusion application. PL 109–401 Sec 252 ..... 202
Notification to Congress of IAEA Board approval. PL 109–401 Sec 251 ..... 202
Rule of construction ..... PL 109–401 Sec 254 ..... 203
Findings ..... PL 109–401 Sec 202 ..... 193
IAEA inspections and visits ..... PL 109–401 Sec 262 ..... 204
Penalties ..... PL 109–401 Sec 242 ..... 200
Protection of national security information. PL 109–401 Sec 261 ..... 203
Recordkeeping violations ..... PL 109–401 Sec 241 ..... 200
Reports
Content of reports on U.S. declarations. PL 109–401 Sec 273 ..... 204
Efforts to promote implementation of additional protocols. PL 109–401 Sec 274 ..... 205
IAEA notifications ..... PL 109–401 Sec 275 ..... 205
Initial U.S. declaration ..... PL 109–401 Sec 271 ..... 204
Revisions to initial U.S. declaration. PL 109–401 Sec 272 ..... 204
Severability ..... PL 109–401 Sec 204 ..... 196
Weapons of Mass Destruction Control Act of 1992. PL 102–484 ..... 337
International nonproliferation initiative PL 102–484 Sec 1505 ..... 340
Nonproliferation activities of Department of Defense and Department of Energy, report. PL 102–484 Sec 1503 ..... 338
Nonproliferation technology initiative .... PL 102–484 Sec 1504 ..... 339
Sense of Congress ..... PL 102–484 Sec 1502 ..... 337
Weapons of mass destruction proliferation .... EO 12938 ..... 365
Blocking property of proliferators and their supporters. EO 13382 ..... 376
Department of Commerce controls ..... EO 12938 Sec 3 ..... 366
Imposition of controls ..... EO 12938 Sec 2 ..... 365
International negotiations ..... EO 12938 Sec 1 ..... 365
Judicial review ..... EO 12938 Sec 9 ..... 370
Measures against foreign persons ..... EO 12938 Sec 4 ..... 366
Preservation of authorities ..... EO 12938 Sec 8 ..... 369
Revocation of orders ..... EO 12938 Sec 10 ..... 370
Sanctions
Against foreign countries ..... EO 12938 Sec 5 ..... 368
Duration of ..... EO 12938 Sec 6 ..... 369
Implementation of ..... EO 12938 Sec 7 ..... 369
WHO. See World Health Organization
World Health Organization
Participation of Taiwan ..... PL 108–235 Sec 1 ..... 847


## Y


Youth. See Children


## Z


Zionism
Response to U.N. resolution ..... Note ..... 970


○

# EDGE INDEX

To use the index on the left, bend the publication over and locate the desired section by following the black markers.


ARMS CONTROL AND DISARMAMENT (p. 1)

WAR POWERS, COLLECTIVE SECURITY, AND RELATED MATERIAL (p. 725)

UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS (p. 925)

APPENDICES (p. 1049)

INDEX (p. 1097)


NOTE.—Volume II is printed in two parts, II–A and II–B, effective 2008. Volume II–A contains legislation and Executive orders relating to the Department of State and information, educational and cultural exchange programs.