

CHAPTER 88—NUCLEAR NON-PROLIFERATION TREATY—UNITED STATES ADDITIONAL PROTOCOL IMPLEMENTATION

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§ 8101. 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 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.

(Pub. L. 109-401, title II, §202, Dec. 18, 2006, 120 Stat. 2741.)

SHORT TITLE

Pub. L. 109-401, title II, §201, Dec. 18, 2006, 120 Stat. 2741, provided that: "This title [enacting this chapter] may be cited as the 'United States Additional Protocol Implementation Act'."

EX. ORD. NO. 13458. 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

Ex. Ord. No. 13458, Feb. 4, 2008, 73 F.R. 7181, provided: 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[, title II]) 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.

GEORGE W. BUSH.

§ 8102. Definitions

In this chapter:

(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.

(4) Executive agency

The term “executive agency” has the meaning given such term in section 105 of title 5.

(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.

(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; and