

transmittal of credible information with respect to an activity described in such paragraph not later than 60 days after becoming aware of the activity.

(Pub. L. 110-417, [div. A], title X, § 1062, Oct. 14, 2008, 122 Stat. 4614.)

CODIFICATION

Section was enacted as part of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, and not as part of the Defense Against Weapons of Mass Destruction Act of 1996 which comprises this chapter.

§ 2371. Report on nuclear aspirations of non-state entities, nuclear weapons and related programs in non-nuclear-weapons states and countries not parties to the Nuclear Non-Proliferation Treaty, and certain foreign persons

(a) In general

The Director of National Intelligence shall biennially submit to the congressional defense committees, the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives a report—

(1) on the nuclear weapons programs and any related programs of countries that are non-nuclear-weapons state parties to the Treaty on 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”) and countries that are not parties to the Treaty;

(2) on the nuclear weapons aspirations of such non-state entities as the Director considers appropriate to include in the report; and

(3) that identifies 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—

(A) weapons of mass destruction (including nuclear weapons, chemical weapons, or biological weapons); or

(B) ballistic or cruise missile systems.

(b) Elements

The report required under subsection (a) shall include, with respect to each country described in subsection (a)(1) and each non-state entity referred to in subsection (a)(2), the following:

(1) A statement of the number of nuclear weapons possessed by such country or non-state entity.

(2) An estimate of the total number of nuclear weapons that such country or non-state entity seeks to obtain and, in the case of such non-state entity, an assessment of the extent to which such non-state entity is seeking to develop a nuclear weapon or device or radiological dispersion device.

(3) A description of the technical characteristics of any nuclear weapons possessed by such country or non-state entity.

(4) A description of nuclear weapons designs available to such country or non-state entity.

(5) A description of any sources of assistance with respect to nuclear weapons design provided to or by such country or non-state entity and, in the case of assistance provided by such country or non-state entity, a description of to whom such assistance was provided.

(6) An assessment of the annual capability of such country and non-state entity to produce new or newly designed nuclear weapons.

(7) A description of the type of fissile materials used in any nuclear weapons possessed by such country or non-state entity.

(8) An¹ description of the location and production capability of any fissile materials production facilities in such country or controlled by such non-state entity, the current status of any such facilities, and any plans by such country or non-state entity to develop such facilities.

(9) An identification of the source of any fissile materials used by such country or non-state entity, if such materials are not produced in facilities referred to in paragraph (8).

(10) An assessment of the intentions of such country or non-state entity to leverage civilian nuclear capabilities for a nuclear weapons program.

(11) A description of any delivery systems available to such country or non-state entity and an assessment of whether nuclear warheads have been mated, or there are plans for such warheads to be mated, to any such delivery system.

(12) An assessment of the physical security of the storage facilities for nuclear weapons in such country or controlled by such non-state entity.

(13) An assessment of whether such country is modernizing or otherwise improving the safety, security, and reliability of the nuclear weapons stockpile of such country.

(14) An assessment of the industrial capability and capacity of such country or non-state entity to produce nuclear weapons.

(15) In the case of a country, an assessment of the policy of such country on the employment and use of nuclear weapons.

(c) References to other reports

Each report submitted under subsection (a) shall include a copy of any other report that is incorporated by reference into the report submitted under subsection (a).

(d) Unclassified summary

Each report submitted under subsection (a) shall include an unclassified summary of such report.

(e) Submittal to Congress

(1) In general

Except as provided in paragraph (2), the Director of National Intelligence shall submit to the congressional defense committees, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives the first report required under subsection (a) by not later than September 1, 2010.

¹ So in original. Probably should be “A”.

(2) Notification of delay in submittal

If the Director of National Intelligence determines that it will not be possible for the Director to submit the first report required under subsection (a) by September 1, 2010, the Director shall, not later than August 1, 2010, submit to the committees specified in paragraph (1) a notice—

(A) that such report will not be submitted by September 1, 2010; and

(B) setting forth the date by which the Director will submit such report.

(f) Omitted**(g) Definitions**

In this section:

(1) Foreign person

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 non-governmental 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) Country of proliferation concern

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—

(A) in the most recent report under section 2366² of this title; 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.

(Pub. L. 111-84, div. A, title X, §1055, Oct. 28, 2009, 123 Stat. 2461; Pub. L. 111-383, div. A, title X, §1075(d)(13), Jan. 7, 2011, 124 Stat. 4373; Pub. L. 112-81, div. A, title X, §1071, Dec. 31, 2011, 125 Stat. 1592.)

REFERENCES IN TEXT

Section 2366 of this title, referred to in subsec. (g)(2)(A), was repealed by Pub. L. 112-239, div. A, title X, §1065(c), Jan. 2, 2013, 126 Stat. 1943, and Pub. L. 112-277, title III, §310(a)(1), Jan. 14, 2013, 126 Stat. 2474.

CODIFICATION

Section is comprised of section 1055 of Pub. L. 111-84. Subsec. (f) of section 1055 of Pub. L. 111-84 repealed section 2369 of this title.

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2010, and not as part

² See References in Text note below.

of the Defense Against Weapons of Mass Destruction Act of 1996 which comprises this chapter.

AMENDMENTS

2011—Subsec. (a). Pub. L. 112-81 substituted “the Permanent” for “and the Permanent” and inserted “, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives” before “a report” in introductory provisions.

Subsec. (f). Pub. L. 111-383 made technical amendment to directory language of Pub. L. 111-84, §1055(f). See Codification note above.

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111-383, div. A, title X, §1075(d), Jan. 7, 2011, 124 Stat. 4372, provided that the amendment by section 1075(d)(13) is effective as of Oct. 28, 2009, and as if included in Pub. L. 111-84 as enacted.

“CONGRESSIONAL DEFENSE COMMITTEES” DEFINED

Congressional defense committees means the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, see section 3 of Pub. L. 111-84, 123 Stat. 2208. See note under section 101 of Title 10, Armed Forces.

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