

SUBCHAPTER IV—EXECUTIVE REPORTING

§ 3281. Annual Presidential report to Congress on governmental efforts to prevent proliferation**(a) Review of Government activities; description of progress; assessment of impact of progress; determinations regarding non-nuclear-weapon states; counterproductiveness of policies**

The President shall review all activities of Government departments and agencies relating to preventing proliferation and shall make a report 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 3223 and 3224 of this title;

(B) negotiating the international arrangements or other mutual undertakings contemplated in section 2153b of title 42;

(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 3241 of this title; and

(E) renegotiating agreements for cooperation as contemplated in section 2153c(a) of title 42;

(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 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 chapter have, on balance, been counterproductive from the standpoint of preventing proliferation;

(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;¹

(6) 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 2139a(c) of title 42;

(ii) an export license was issued under section 2139(b) of title 42;

(iii) approvals were issued under the Export Administration Act of 1979 [50 U.S.C. 4601 et seq.], or section 2139(b)(3) of title 42, for the retransfer of any item, technical data, component, or substance; or

(iv) authorizations were made as required by section 2077(b)(2) of title 42 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 6301(a) of this title or section 6303 of this title or section 2799aa-1(b)(1) of this title;

(ii) sales or leases have been denied under section 2753(f) of this title or transactions prohibited by reason of acts relating to proliferation of nuclear explosive devices as described in section 2780(d) of this title;

(iii) a sanction has not been imposed by reason of section 6301(c)(2) of this title or the imposition of a sanction has been delayed under section 2799aa-1(b)(4) of this title; or

(iv) a waiver of a sanction has been made under—

(I) section 6301(f) of this title or section 6303 of this title,

(II) section 2375(d) of this title, or paragraph (5) or (6)(B) of section 2799aa-1(b) of this title,

(III) section 2780(g) of this title with respect to the last sentence of section 2780(d) of this title, or

(IV) section 2364 of this title with respect to section 2375 of this title or section 2753(f) of this title, the last sentence of section 2780(d) of this title, or 2799aa-1(b)(1)² of this title; 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

¹ So in original. Probably should be “; and”.

² So in original. Probably should be preceded by “section”.

necessary. Any such information that may not be published or disclosed under section 12(c)(1) of the Export Administration Act of 1979 [50 U.S.C. 4614(c)(1)] shall be submitted as confidential.

(b) Analysis of civil agreements for cooperation

In the first report required by this section, the President shall analyze each civil agreement for cooperation negotiated pursuant to section 2153 of title 42, and shall discuss the scope and adequacy of the requirements and obligations relating to safeguards and other controls therein.

(Pub. L. 95-242, title VI, §601, Mar. 10, 1978, 92 Stat. 150; Pub. L. 103-236, title VIII, §811, Apr. 30, 1994, 108 Stat. 507.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(4), was in the original “this Act”, meaning Pub. L. 95-242, Mar. 10, 1978, 92 Stat. 120, known as the Nuclear Non-Proliferation Act of 1978. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of this title and Tables.

The Export Administration Act of 1979, referred to in subsec. (a)(6)(A)(iii), is Pub. L. 96-72, Sept. 29, 1979, 93 Stat. 503, which is classified principally to chapter 56 (§4601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-236 struck out “and” after the semicolon in par. (4), substituted a semicolon for the period in par. (5), and added par. (6) and concluding provisions.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-236 effective 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103-236, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE

Section effective Mar. 10, 1978, except as otherwise provided and regardless of any requirements for the promulgation of implementing regulations, see section 603(c) of Pub. L. 95-242, set out as a note under section 3201 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (a) of this section relating to the requirement that the President annually report to Congress on the Government’s efforts to prevent proliferation, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 15 of House Document No. 103-7.

DELEGATION OF FUNCTIONS

For delegation of congressional reporting functions of President under subsec. (a) of this section, see section 1 of Ex. Ord. No. 13313, July 31, 2003, 68 F.R. 46073, set out as a note under section 301 of Title 3, The President.

§ 3282. Reports by departments and agencies

(a) Reports by Nuclear Regulatory Commission and Department of Energy

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 re-

sponsibility 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) Additional reporting requirements

The reporting requirements of this subchapter are in addition to and not in lieu of any other reporting requirements under applicable law.

(c) Committees on Foreign Relations and Governmental Affairs of Senate and Committee on International Relations of House of Representatives to be kept informed

(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 chapter 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) Classified portions of reports

Any classified portions of the reports required by this chapter shall be submitted to the Senate Foreign Relations Committee and the House Foreign Affairs Committee.

(e) Omitted

(f) Access by Secretary of Defense to information regarding nuclear proliferation matters; applicability

(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.

(Pub. L. 95-242, title VI, §602, Mar. 10, 1978, 92 Stat. 151; Pub. L. 99-661, div. A, title XIII, §1370, Nov. 14, 1986, 100 Stat. 4004; Pub. L. 103-437,