

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 Nuclear Suppliers Group (NSG); and (C) adherence to the MTCR and the NSG in accordance with the procedures of those regimes for unilateral adherence; and

7. The NSG has decided by consensus to permit supply to India of nuclear items covered by the guidelines of the NSG.

I therefore hereby (1) exempt 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 arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) from the requirement of subsection 123 a.(2) of such section; (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) subsection 129 a.(1)(D) of the Atomic Energy Act of 1954 (42 U.S.C. 2158(a)(1)(D)); and

(B) section 129 of the Atomic Energy Act of 1954 (42 U.S.C. 2158) regarding any actions that occurred before July 18, 2005.

The Secretary of State is authorized and directed to publish this determination in the Federal Register.

GEORGE W. BUSH.

DELEGATION OF CERTAIN FUNCTIONS UNDER SECTION 104(g) OF THE UNITED STATES-INDIA PEACEFUL ATOMIC ENERGY COOPERATION ACT OF 2006, AS AMENDED BY PUBLIC LAW 110-369

Memorandum of President of the United States, Apr. 27, 2010, 75 F.R. 23563, provided:

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby delegate to you the functions and authority conferred upon the President by section 104(g) of the [Henry J. Hyde] United States-India Peaceful Atomic Energy Cooperation Act of 2006 (Public Law 109-401), as amended by section 105 of Public Law 110-369, to make the specified report to the Congress.

You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§ 8004. United States compliance with its nuclear nonproliferation treaty obligations

Nothing in this chapter constitutes authority for any action in violation of an obligation of the United States under the NPT.

(Pub. L. 109-401, title I, § 105, Dec. 18, 2006, 120 Stat. 2738.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title I of Pub. L. 109-401, Dec. 18, 2006, 120 Stat. 2726, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 8001 of this title and Tables.

§ 8005. Inoperability of determination and waivers

A determination and any waiver under section 8003 of this title shall cease to be effective if the President determines that India has detonated a nuclear explosive device after December 18, 2006.

(Pub. L. 109-401, title I, § 106, Dec. 18, 2006, 120 Stat. 2738.)

§ 8006. MTCR adherent status

Congress finds that India is not an MTCR adherent for the purposes of section 2797b of this title.

(Pub. L. 109-401, title I, § 107, Dec. 18, 2006, 120 Stat. 2738.)

§ 8007. 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 year of—

(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.

(Pub. L. 109-401, title I, § 109, Dec. 18, 2006, 120 Stat. 2739.)

§ 8008. Definitions

In this chapter:

(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.

(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 6305(3) of this title.

(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 non-governmental 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 2797c of this title.

(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 subsection¹ 2139(b) of title 42.

(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 nu-

clear 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 2014(z) of title 42.

(15) The term “special nuclear material” has the meaning given the term in section 2014(aa) of title 42.

(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.

(Pub. L. 109-401, title I, §110, Dec. 18, 2006, 120 Stat. 2739.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title I of Pub. L. 109-401, Dec. 18, 2006, 120 Stat. 2726, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 8001 of this title and Tables.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

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

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