

fairs and the Committee on Appropriations of the House of Representatives a report on the progress of negotiations on a new civil nuclear cooperation agreement.”

[Memorandum of President of the United States, July 11, 2014, 79 F.R. 43917, delegated to the Secretary of State the reporting functions under section 4 of Pub. L. 113-81, set out above.]

APPLICABILITY OF NOTICE AND WAIT PROVISIONS

Pub. L. 103-337, div. C, title XXXI, §3155(b), Oct. 5, 1994, 108 Stat. 3092, as amended by Pub. L. 104-201, div. C, title XXXI, §3160, Sept. 23, 1996, 110 Stat. 2843; Pub. L. 107-314, div. D, title XLV, §4501(b), formerly Pub. L. 104-106, div. C, title XXXI, §3154(b), Feb. 10, 1996, 110 Stat. 624, renumbered §4501(b) of Pub. L. 107-314 by Pub. L. 108-136, div. C, title XXXI, §3141(h)(2)(A)-(C), Nov. 24, 2003, 117 Stat. 1771, provided that: “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 [42 U.S.C. 2164(d)], as inserted by subsection (a), until October 1, 1997.”

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under this chapter, as amended by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95-242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

FUEL CYCLE EVALUATIONS; REPORT TO CONGRESS

Pub. L. 95-601, §9, Nov. 6, 1978, 92 Stat. 2951, directed Commission to monitor and assist, as requested, International Fuel Cycle Evaluation and studies and evaluations of various nuclear fuel cycle systems by Department of Energy in progress as of Nov. 6, 1978, and report to Congress semiannually through calendar year 1980 and annually through calendar year 1982 on status of domestic and international evaluations of nuclear fuel cycle systems, with report to include a summary of information developed by and available to Commission on health, safety, and safeguards implications of leading fuel cycle technologies.

ADEQUACY OF LAWS AND REGULATIONS GOVERNING EXPORT AND RE-EXPORT OF NUCLEAR MATERIALS, ETC., AND SAFEGUARDS PREVENTING PROLIFERATION OF NUCLEAR MATERIALS

Pub. L. 93-500, §14, Oct. 29, 1974, 88 Stat. 1557, directed President to review and report to Congress within six months after Oct. 29, 1974, on all laws and pertinent regulations issued thereunder, governing the export and re-export of nuclear materials and information relating to the design and development thereof, in order to curb further domestic and international nuclear proliferation, diversion, or theft of nuclear materials.

COOPERATION WITH BERLIN

Act Aug. 1, 1946, ch. 724, title I, §125, as added by Apr. 12, 1957, Pub. L. 85-14, 71 Stat. 11; amended by Aug. 17, 1974, Pub. L. 93-377, §5, 88 Stat. 475; renumbered title I, Oct. 24, 1992, Pub. L. 102-486, title IX, §902(a)(8), 106 Stat. 2944, provided that the President could authorize the Commission to enter into agreements for cooperation with the Federal Republic of Germany in accordance with this section, on behalf of Berlin, which for the purposes of this chapter comprised those areas over which the Berlin Senate exercised jurisdiction (the United States, British, and French sectors) and the Commission could thereafter cooperate with Berlin pursuant to section 2074(a), 2077, 2094, 2112, 2133, or 2134 of this title, with provision that the guaranties required by this section were to be made by Berlin with the approval of the allied commandants.

EX. ORD. NO. 10841. INTERNATIONAL COOPERATION

Ex. Ord. No. 10841, eff. Sept. 30, 1959, 24 F.R. 7941, as amended by Ex. Ord. No. 10956, eff. Aug. 10, 1961, 26 F.R. 7315; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, provided:

SECTION 1. Whenever the President, pursuant to section 123 of the Act [this section], has approved and authorized the execution of a proposed agreement providing for cooperation pursuant to section 91c, 144a, 144b, or 144c of the Act [sections 2121(c), 2164(a), 2164(b), 2164(c) of this title], 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 [sections 2121(c), 2164(a), 2164(b), or 2164(c) of this title], as pertinent. In respect of sections 91c, 144b, and 144c [sections 2121(c), 2164(b), and 2164(c) of this title], authorizations by the President to cooperate shall be subject to the requirements of sections 123d of the Act [subsec. (d) of this section] and shall also be subject to appropriate determinations made pursuant to section 2 of this order.

SEC. 2. (a) The Secretary of Defense and the Secretary of Energy 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 [section 2121(c) of this title] 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 [section 2164(b) of this title] 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.

(3) The authority vested in the President by section 144c of the Act [section 2164(c) of this title] to determine that the proposed cooperation and the 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 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 [section 2121(c) of this title] of approving programs proposed under that section.

SEC. 4. (a) The functions of negotiating and entering into international agreements under the Act [this chapter] shall be performed by or under the authority of the Secretary of State.

(b) International cooperation under the Act [this chapter] shall be subject to the responsibilities of the Secretary of State with respect to the foreign policy of the United States pertinent thereto.

§ 2153a. Approval for enrichment after export of source or special nuclear material; export of major critical components of enrichment facilities

(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 approval of the United States for such enrichment: *Provided*, That the procedures governing such approvals shall be identical to those set forth for the approval of proposed subsequent arrangements under section 2160 of this title, 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 March 10, 1978, 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 section 2121(c), 2164(b), or 2164(c) of this title) 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.

(Pub. L. 95-242, title IV, § 402, Mar. 10, 1978, 92 Stat. 145.)

CODIFICATION

Section was enacted as part of the Nuclear Non-Proliferation Act of 1978, and not as part of the Atomic Energy Act of 1954 which comprises this chapter.

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 Title 22, Foreign Relations and Intercourse.

DELEGATION OF FUNCTIONS

Delegation or assignment to Secretary of Energy of function vested in President under subsec. (b) of this section, see section 1(a) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

PERFORMANCE OF FUNCTIONS PENDING DEVELOPMENT OF PROCEDURES

The performance of functions under the Nuclear Non-Proliferation Act of 1978, Pub. L. 95-242, Mar. 10, 1978, 92 Stat. 120, not to be delayed pending development of procedures even though as many as 120 days [after Mar. 10, 1978] are allowed for establishing those procedures, see section 5(b) of Ex. Ord. No. 12058, May 11, 1978, 43 F.R. 20947, set out under section 3201 of Title 22, Foreign Relations and Intercourse.

§ 2153b. Export policies relating to peaceful nuclear activities and international nuclear trade

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) Undertakings by transferee nations receiving nuclear material and equipment or sensitive nuclear technology

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 explosive devices for any purpose, except as permitted by Article V, the Treaty;

(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 measures 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) Enrichment of source or special nuclear material only under effective international auspices and inspection

(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 section 2014(aa)(2) of this title) 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