

## “SEC. 105. MODIFIED REPORTING TO CONGRESS.

“[Amended section 8003 of this title.]

“TITLE II—STRENGTHENING UNITED STATES  
NONPROLIFERATION LAW RELATING TO  
PEACEFUL NUCLEAR COOPERATION“SEC. 201. PROCEDURES REGARDING A SUBSE-  
QUENT ARRANGEMENT ON REPROCESSING.

“(a) IN GENERAL.—Notwithstanding section 131 of the Atomic Energy Act of 1954 (42 U.S.C. 2160), no proposed subsequent arrangement concerning arrangements and procedures regarding reprocessing or other alteration in form or content, as provided for in Article 6 of the Agreement, shall take effect until the requirements specified in subsection (b) are met.

“(b) REQUIREMENTS.—The requirements referred to in subsection (a) are the following:

“(1) The President transmits to the appropriate congressional committees a report containing—

“(A) the reasons for entering into such proposed subsequent arrangement;

“(B) a detailed description, including the text, of such proposed subsequent arrangement; and

“(C) a certification that the United States will pursue efforts to ensure that any other nation that permits India to reprocess or otherwise alter in form or content nuclear material that the nation has transferred to India or nuclear material and by-product material used in or produced through the use of nuclear material, non-nuclear material, or equipment that it has transferred to India requires India to do so under similar arrangements and procedures.

“(2) A period of 30 days of continuous session (as defined by section 130 g.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2159(g)(2)) has elapsed after transmittal of the report required under paragraph (1).

“(c) RESOLUTION OF DISAPPROVAL.—Notwithstanding the requirements in subsection (b) having been met, a subsequent arrangement referred to in subsection (a) shall not become effective if during the time specified in subsection (b)(2), Congress adopts, and there is enacted, a joint resolution stating in substance that Congress does not favor such subsequent arrangement. Any such resolution shall be considered pursuant to the procedures set forth in section 130 i. of the Atomic Energy Act of 1954 (42 U.S.C. 2159(i)), as amended by section 205 of this Act.

“SEC. 202. INITIATIVES AND NEGOTIATIONS RE-  
LATING TO AGREEMENTS FOR PEACEFUL NU-  
CLEAR COOPERATION.

“[Amended section 2153 of Title 42, The Public Health and Welfare.]

“SEC. 203. ACTIONS REQUIRED FOR RESUMPTION  
OF PEACEFUL NUCLEAR COOPERATION.

“[Amended section 2158 of Title 42.]

“SEC. 204. UNITED STATES GOVERNMENT POLICY  
AT THE NUCLEAR SUPPLIERS GROUP TO  
STRENGTHEN THE INTERNATIONAL NUCLEAR  
NONPROLIFERATION REGIME.

“(a) CERTIFICATION.—Before exchanging diplomatic notes pursuant to Article 16(1) of the Agreement, the President shall certify to the appropriate congressional committees that it is the policy of the United States to work with members of the Nuclear Suppliers Group (NSG), individually and collectively, to agree to further restrict the transfers of equipment and technology related to the enrichment of uranium and reprocessing of spent nuclear fuel.

“(b) PEACEFUL USE ASSURANCES FOR CERTAIN BY-PRODUCT MATERIAL.—The President shall seek to achieve, by the earliest possible date, either within the NSG or with relevant NSG Participating Governments, the adoption of principles, reporting, and exchanges of information as may be appropriate to assure peaceful use and accounting of by-product material in a manner that is substantially equivalent to the relevant provisions of the Agreement.

## “(c) REPORT.—

“(1) IN GENERAL.—Not later than six months after the date of the enactment of this Act [Oct. 8, 2008], and every six months thereafter, the President shall transmit to the appropriate congressional committees a report on efforts by the United States pursuant to subsections (a) and (b).

“(2) TERMINATION.—The requirement to transmit the report under paragraph (1) terminates on the date on which the President transmits a report pursuant to such paragraph stating that the objectives in subsections (a) and (b) have been achieved.

## “SEC. 205. CONFORMING AMENDMENTS.

“[Amended section 2159 of Title 42.]”

[Functions of President under section 201(b) of Pub. L. 110-369, set out above, delegated to Secretary of Energy by Memorandum of President of the United States, May 4, 2010, 75 F.R. 27155.]

[Functions of President under section 204(c) of Pub. L. 110-369, set out above, delegated to Secretary of State by Memorandum of President of the United States, Mar. 10, 2010, 75 F.R. 13427.]

CERTIFICATIONS PURSUANT TO THE UNITED STATES-INDIA  
NUCLEAR COOPERATION APPROVAL AND NONPROLIFERA-  
TION ENHANCEMENT ACT (PUBLIC LAW 110-369)

Determination of President of the United States, No. 2009-6, Oct. 20, 2008, 73 F.R. 63841, provided:

Memorandum for the Secretary of State

Pursuant to section 102(c) and section 204(a) of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, I hereby certify that:

1. Entry into force and implementation of the United States-India Agreement for Cooperation on Peaceful Uses of Nuclear Energy pursuant to its terms is consistent with the obligation of the United States under the Treaty on the Non-Proliferation of Nuclear Weapons not in any way to assist, encourage, or induce India to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and

2. It is the policy of the United States to work with members of the Nuclear Suppliers Group, individually and collectively, to agree to further restrict the transfers of equipment and technology related to the enrichment of uranium and reprocessing of spent nuclear fuel.

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

GEORGE W. BUSH.

Determination of President of the United States, No. 2010-04, Feb. 3, 2010, 75 F.R. 7337, provided:

Memorandum for the Secretary of State

Pursuant to section 104 of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act (Public Law 110-369), I hereby determine and certify that:

1. The Agreement between the Government of India and the International Atomic Energy Agency for the Application of Safeguards to Civilian Nuclear Facilities, as approved by the Board of Governors of the International Atomic Energy Agency on August 1, 2008 (the “Safeguards Agreement”), has entered into force; and

2. The Government of India has filed a declaration of facilities pursuant to paragraph 13 of the Safeguards Agreement that is not materially inconsistent with the facilities and schedule described in paragraph 14 of the Separation Plan presented in the national parliament of India on May 11, 2006, taking into account the later initiation of safeguards than was anticipated in the Separation Plan.

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

BARACK OBAMA.

## § 8002. Statements of policy

## (a) In general

The following shall be the policies of the United States:

(1) Oppose the development of a capability to produce nuclear weapons by any non-nuclear weapon state, within or outside of the NPT.

(2) Encourage States Party to the NPT to interpret the right to “develop research, production and use of nuclear energy for peaceful purposes”, as set forth in Article IV of the NPT, as being a right that applies only to the extent that it is consistent with the object and purpose of the NPT to prevent the spread of nuclear weapons and nuclear weapons capabilities, including by refraining from all nuclear cooperation with any State Party that the International Atomic Energy Agency (IAEA) determines is not in full compliance with its NPT obligations, including its safeguards obligations.

(3) Act in a manner fully consistent with the Guidelines for Nuclear Transfers and the Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Materials, Software and Related Technology developed by the NSG, and decisions related to the those<sup>1</sup> guidelines, and the rules and practices regarding NSG decisionmaking.

(4) Strengthen the NSG guidelines and decisions concerning consultation by members regarding violations of supplier and recipient understandings by instituting the practice of a timely and coordinated response by NSG members to all such violations, including termination of nuclear transfers to an involved recipient, that discourages individual NSG members from continuing cooperation with such recipient until such time as a consensus regarding a coordinated response has been achieved.

(5) Given the special sensitivity of equipment and technologies related to the enrichment of uranium, the reprocessing of spent nuclear fuel, and the production of heavy water, work with members of the NSG, individually and collectively, to further restrict the transfers of such equipment and technologies, including to India.

(6) Seek to prevent the transfer to a country of nuclear equipment, materials, or technology from other participating governments in the NSG or from any other source if nuclear transfers to that country are suspended or terminated pursuant to this chapter, the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or any other United States law.

**(b) With respect to South Asia**

The following shall be the policies of the United States with respect to South Asia:

(1) Achieve, at the earliest possible date, a moratorium on the production of fissile material for nuclear explosive purposes by India, Pakistan, and the People’s Republic of China.

(2) Achieve, at the earliest possible date, the conclusion and implementation of a treaty banning the production of fissile material for nuclear weapons to which both the United States and India become parties.

(3) Secure India’s—

(A) full participation in the Proliferation Security Initiative;

(B) formal commitment to the Statement of Interdiction Principles of such Initiative;

(C) public announcement of its decision to conform its export control laws, regulations, and policies with the Australia Group and with the Guidelines, Procedures, Criteria, and Control Lists of the Wassenaar Arrangement;

(D) demonstration of satisfactory progress toward implementing the decision described in subparagraph (C); and

(E) ratification of or accession to the Convention on Supplementary Compensation for Nuclear Damage, done at Vienna on September 12, 1997.

(4) Secure India’s full and active participation in United States efforts to dissuade, isolate, and, if necessary, sanction and contain Iran for its efforts to acquire weapons of mass destruction, including a nuclear weapons capability and the capability to enrich uranium or reprocess nuclear fuel, and the means to deliver weapons of mass destruction.

(5) Seek to halt the increase of nuclear weapon arsenals in South Asia and to promote their reduction and eventual elimination.

(6) Ensure that spent fuel generated in India’s civilian nuclear power reactors is not transferred to the United States except pursuant to the Congressional review procedures required under section 131 f. of the Atomic Energy Act of 1954 (42 U.S.C. 2160(f)).

(7) Pending implementation of the multilateral moratorium described in paragraph (1) or the treaty described in paragraph (2), encourage India not to increase its production of fissile material at unsafeguarded nuclear facilities.

(8) Ensure that any safeguards agreement or Additional Protocol to which India is a party with the IAEA can reliably safeguard any export or reexport to India of any nuclear materials and equipment.

(9) Ensure that the text and implementation of any agreement for cooperation with India arranged pursuant to section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) meet the requirements set forth in subsections a.(1) and a.(3) through a.(9) of such section [42 U.S.C. 2153(a)(1), (3)–(9)].

(10) Any nuclear power reactor fuel reserve provided to the Government of India for use in safeguarded civilian nuclear facilities should be commensurate with reasonable reactor operating requirements.

(Pub. L. 109–401, title I, §103, Dec. 18, 2006, 120 Stat. 2727.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(6), 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.

The Atomic Energy Act of 1954, referred to in subsec. (a)(6), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, §1, 68 Stat. 919, which is classified principally to chapter 23 (§2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

<sup>1</sup> So in original.

**§ 8003. Waiver authority and congressional approval**

**(a) In general**

If the President makes the determination described in subsection (b), the President may—

- (1) exempt a proposed agreement for cooperation with India arranged pursuant to section 2153 of title 42 from the requirement of subsection (a)(2) of such section;
- (2) waive the application of section 2157 of title 42 with respect to exports to India; and
- (3) waive with respect to India the application of—
  - (A) section 2158(a)(1)(D) of title 42; and
  - (B) section 2158 of title 42 regarding any actions that occurred before July 18, 2005.

**(b) Determination by the President**

The determination referred to in subsection (a) is a determination by the President that the following actions have occurred:

- (1) India has provided the United States and the IAEA with a credible plan to separate civil and military nuclear facilities, materials, and programs, and has filed a declaration regarding its civil facilities and materials with the IAEA.
- (2) India and the IAEA have concluded all legal steps required prior to signature by the parties of an agreement requiring the application of IAEA safeguards in perpetuity in accordance with IAEA standards, principles, and practices (including IAEA Board of Governors Document GOV/1621 (1973)) to India's civil nuclear facilities, materials, and programs as declared in the plan described in paragraph (1), including materials used in or produced through the use of India's civil nuclear facilities.
- (3) India and the IAEA are making substantial progress toward concluding an Additional Protocol consistent with IAEA principles, practices, and policies that would apply to India's civil nuclear program.
- (4) India is working actively with the United States for the early conclusion of a multilateral treaty on the cessation of the production of fissile materials for use in nuclear weapons or other nuclear explosive devices.
- (5) India is working with and supporting United States and international efforts to prevent the spread of enrichment and reprocessing technology to any state that does not already possess full-scale, functioning enrichment or reprocessing plants.
- (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 NSG; and
  - (C) adherence to the MTCR and the NSG in accordance with the procedures of those regimes for unilateral adherence.
- (7) The NSG has decided by consensus to permit supply to India of nuclear items covered by the guidelines of the NSG.

**(c) Submission to Congress**

**(1) In general**

The President shall submit to the appropriate congressional committees the determination made pursuant to subsection (b), together with a report detailing the basis for the determination.

**(2) Information to be included**

To the fullest extent available to the United States, the report referred to in paragraph (1) shall include the following information:

(A) A summary of the plan provided by India to the United States and the IAEA to separate India's civil and military nuclear facilities, materials, and programs, and the declaration made by India to the IAEA identifying India's civil facilities to be placed under IAEA safeguards, including an analysis of the credibility of such plan and declaration, together with copies of the plan and declaration.

(B) A summary of the agreement that has been entered into between India and the IAEA requiring the application of safeguards in accordance with IAEA practices to India's civil nuclear facilities as declared in the plan described in subparagraph (A), together with a copy of the agreement, and a description of the progress toward its full implementation.

(C) A summary of the progress made toward conclusion and implementation of an Additional Protocol between India and the IAEA, including a description of the scope of such Additional Protocol.

(D) A description of the steps that India is taking to work with the United States for the conclusion of a multilateral treaty banning the production of fissile material for nuclear weapons, including a description of the steps that the United States has taken and will take to encourage India to identify and declare a date by which India would be willing to stop production of fissile material for nuclear weapons unilaterally or pursuant to a multilateral moratorium or treaty.

(E) A description of the steps India is taking to prevent the spread of nuclear-related technology, including enrichment and reprocessing technology or materials that can be used to acquire a nuclear weapons capability, as well as the support that India is providing to the United States to further United States objectives to restrict the spread of such technology.

(F) A description of the steps that India is taking to secure materials and technology applicable for the development, acquisition, or manufacture of weapons of mass destruction and the means to deliver such weapons through the application of comprehensive export control legislation and regulations, and through harmonization with and adherence to MTCR, NSG, Australia Group, and Wassenaar Arrangement guidelines, compliance with United Nations Security Council Resolution 1540, and participation in the Proliferation Security Initiative.

(G) A description and assessment of the specific measures that India has taken to