

Section 101(a) of the United States-India Nuclear Cooperation Approval and Nonproliferation Enhancement Act, referred to in subsec. (g)(2)(M), is section 101(a) of Pub. L. 110-369, which is set out in a note under section 8001 of this title.

Section 2376(c) of this title, referred to in subsec. (g)(3)(B), was repealed by Pub. L. 113-188, title XIV, §1401, Nov. 26, 2014, 128 Stat. 2023.

#### CODIFICATION

Section is comprised of section 104 of Pub. L. 109-401. Subsec. (e) of section 104 of Pub. L. 109-401 amended section 2153(d) of Title 42, The Public Health and Welfare.

#### AMENDMENTS

2008—Subsec. (f). Pub. L. 110-369, §101(c), substituted “October 8, 2008” for “the enactment of a joint resolution under section 2153(d) of title 42 approving such an agreement”.

Subsec. (g)(1)(B) to (E). Pub. L. 110-369, §105(a), added subpar. (B) and redesignated former subpars. (B) to (D) as (C) to (E), respectively.

Subsec. (g)(2)(M). Pub. L. 110-369, §105(b), added subpar. (M).

#### PROPOSED AGREEMENT FOR COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF INDIA CONCERNING PEACEFUL USES OF NUCLEAR ENERGY

Determination of President of the United States, No. 2008-26, Sept. 10, 2008, 73 F.R. 54287, provided:

Memorandum for the Secretary of State [and] the Secretary of Energy

I have considered 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, along with the views, recommendations, and statements of interested agencies.

I have determined that the performance of the Agreement will promote, and will not constitute an unreasonable risk to, the common defense and security. Pursuant to section 123 b. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(B) [sic]), I hereby approve the proposed agreement and authorize the Secretary of State to arrange for its execution.

In addition, pursuant to the authority vested in me by the Constitution and the laws of the United States of America, including the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006 (Public Law 109-401), I hereby determine that:

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 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.)