

SUBCHAPTER IV—A—NONPROLIFERATION
ASSISTANCE COORDINATION

CODIFICATION

Subchapter was enacted as part of the Nonproliferation Assistance Coordination Act of 2002, and also as part of the Security Assistance Act of 2002 and the Foreign Relations Authorization Act, Fiscal Year 2003, and not as part of the Defense Against Weapons of Mass Destruction Act of 1996 which comprises this chapter.

§ 2357. Findings

Congress finds that—

(1) United States nonproliferation efforts in the independent states of the former Soviet Union have achieved important results in ensuring that weapons of mass destruction, weapons-usable material and technology, and weapons-related knowledge remain beyond the reach of terrorists and weapons-proliferating states;

(2) although these efforts are in the United States national security interest, the effectiveness of these efforts has suffered from a lack of coordination within and among United States Government agencies;

(3) increased spending and investment by the United States private sector on nonproliferation efforts in the independent states of the former Soviet Union, specifically, spending and investment by the United States private sector in job creation initiatives and proposals for unemployed Russian Federation weapons scientists and technicians, are making an important contribution in ensuring that knowledge related to weapons of mass destruction remains beyond the reach of terrorists and weapons-proliferating states; and

(4) increased spending and investment by the United States private sector on nonproliferation efforts in the independent states of the former Soviet Union make advisable the establishment of a coordinating body to ensure that United States public and private efforts are not in conflict, and to ensure that public spending on efforts by the independent states of the former Soviet Union is maximized to ensure efficiency and further United States national security interests.

(Pub. L. 107-228, div. B, title XIII, § 1332, Sept. 30, 2002, 116 Stat. 1448.)

SHORT TITLE

For short title of subtitle C (§§ 1331-1339) of title XIII of div. B of Pub. L. 107-228, which enacted this subchapter, as the “Nonproliferation Assistance Coordination Act of 2002”, see section 1331 of Pub. L. 107-228, set out as a note under section 2301 of this title.

§ 2357a. Definitions

(a) Independent states of the former Soviet Union

In this subchapter, the term “independent states of the former Soviet Union” has the meaning given the term in section 5801 of title 22.

(b) Appropriate committees of Congress

In this subchapter, the term “the appropriate committees of Congress” means the Committees on Foreign Relations, Armed Services, and Ap-

propriations of the Senate and the Committees on International Relations, Armed Services, and Appropriations of the House of Representatives.

(Pub. L. 107-228, div. B, title XIII, § 1333, Sept. 30, 2002, 116 Stat. 1449.)

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.

§ 2357b. Establishment of Committee on Nonproliferation Assistance

(a) In general

The President shall establish a mechanism to coordinate, with the maximum possible effectiveness and efficiency, the efforts of United States Government departments and agencies engaged in formulating policy and carrying out programs for achieving nonproliferation and threat reduction.

(b) Membership

The coordination mechanism established pursuant to subsection (a) shall include—

(1) representatives designated by—

- (A) the Secretary of State;
- (B) the Secretary of Defense;
- (C) the Secretary of Energy;
- (D) the Secretary of Commerce;
- (E) the Attorney General; and
- (F) the Director of the Office of Homeland Security, or the head of a successor department or agency; and

(2) such other executive branch officials as the President may select.

(c) Level of representation

To the maximum extent possible, each department¹ or agency’s representative designated pursuant to subsection (b)(1) shall be an official of that department or agency who has been appointed by the President with the advice and consent of the Senate.

(d) Chair

The President shall designate an official to direct the coordination mechanism established pursuant to subsection (a). The official so designated may invite the head of any other department or agency of the United States to designate a representative of that department or agency to participate from time to time in the activities of the Committee.

(Pub. L. 107-228, div. B, title XIII, § 1334, Sept. 30, 2002, 116 Stat. 1449.)

RUSSIAN FEDERATION DEBT REDUCTION FOR
NONPROLIFERATION

Pub. L. 107-228, div. B, title XIII, subtitle B, Sept. 30, 2002, 116 Stat. 1442, as amended by Pub. L. 108-271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 112-74, div. I, title VII, § 7034(n), Dec. 23, 2011, 125 Stat. 1217, provided that:

“SEC. 1311. SHORT TITLE.

“This subtitle may be cited as the ‘Russian Federation Debt for Nonproliferation Act of 2002’.

“SEC. 1312. FINDINGS AND PURPOSES.

“(a) FINDINGS.—Congress finds the following:

¹ So in original. Probably should be “department’s”.

“(1) It is in the vital security interests of the United States to prevent the spread of weapons of mass destruction to additional states or to terrorist organizations, and to ensure that other nations’ obligations to modify their stockpiles of such arms in accordance with treaties, executive agreements, or political commitments are fulfilled.

“(2) In particular, it is in the vital national security interests of the United States to ensure that—

“(A) all stocks of nuclear weapons and weapons-usable nuclear material in the Russian Federation are secure and accounted for;

“(B) stocks of nuclear weapons and weapons-usable nuclear material that are excess to military needs in the Russian Federation are monitored and reduced;

“(C) any chemical or biological weapons, related materials, and facilities in the Russian Federation are destroyed;

“(D) the Russian Federation’s nuclear weapons complex is reduced to a size appropriate to its post-Cold War missions, and its experts in weapons of mass destruction technologies are shifted to gainful and sustainable civilian employment;

“(E) the Russian Federation’s export control system blocks any proliferation of weapons of mass destruction, the means of delivering such weapons, and materials, equipment, know-how, or technology that would be used to develop, produce, or deliver such weapons; and

“(F) these objectives are accomplished with sufficient monitoring and transparency to provide confidence that they have in fact been accomplished and that the funds provided to accomplish these objectives have been spent efficiently and effectively.

“(3) United States programs should be designed to accomplish these vital objectives in the Russian Federation as rapidly as possible, and the President should develop and present to Congress a plan for doing so.

“(4) Substantial progress has been made in United States-Russian Federation cooperative programs to achieve these objectives, but much more remains to be done to reduce the urgent risks to United States national security posed by the current state of the Russian Federation’s weapons of mass destruction stockpiles and complexes.

“(5) The threats posed by inadequate management of weapons of mass destruction stockpiles and complexes in the Russian Federation remain urgent. Incidents in years immediately preceding 2001, which have been cited by the Russia Task Force of the Secretary of Energy Advisory Board, include—

“(A) a conspiracy at one of the Russian Federation’s largest nuclear weapons facilities to steal nearly enough highly enriched uranium for a nuclear bomb;

“(B) an attempt by an employee of the Russian Federation’s premier nuclear weapons facility to sell nuclear weapons designs to agents of Iraq and Afghanistan; and

“(C) the theft of radioactive material from a Russian Federation submarine base.

“(6) Addressing these threats to United States and world security will ultimately consume billions of dollars, a burden that will have to be shared by the Russian Federation, the United States, and other governments, if these threats are to be neutralized.

“(7) The creation of new funding streams could accelerate progress in reducing these threats to United States security and help the government of the Russian Federation to fulfill its responsibility for secure management of its weapons stockpiles and complexes as United States assistance phases out.

“(8) The Russian Federation has a significant foreign debt, a substantial proportion of which it inherited from the Soviet Union.

“(9) Past debt-for-environment exchanges, in which a portion of a country’s foreign debt is canceled in return for certain environmental commitments or pay-

ments by that country, suggest that a debt-for-nonproliferation exchange with the Russian Federation could be designed to provide additional funding for nonproliferation and arms reduction initiatives.

“(10) Most of the Russian Federation’s official bilateral debt is held by United States allies that are advanced industrial democracies. Since the issues described pose threats to United States allies as well, United States leadership that results in a larger contribution from United States allies to cooperative threat reduction activities will be needed.

“(11) At the June 2002 meeting of the G-8 countries, agreement was achieved on a G-8 Global Partnership against the Spread of Weapons and Materials of Mass Destruction, under which the advanced industrial democracies committed to contribute \$20,000,000,000 to nonproliferation programs in the Russian Federation during a 10-year period, with each contributing country having the option to fund some or all of its contribution through reduction in the Russian Federation’s official debt to that country.

“(12) The Russian Federation’s Soviet-era official debt to the United States is estimated to be \$480,000,000 in Lend-Lease debt and \$2,250,000,000 in debt as a result of credits extended under title I of the Agricultural Trade Development and Assistance Act of 1954 [now Food for Peace Act] (7 U.S.C. 1701 et seq.).

“(b) PURPOSES.—The purposes of this subtitle are—

“(1) to facilitate the accomplishment of the United States objectives described in the findings set forth in subsection (a) by providing for the use of a portion of the Russian Federation’s foreign debt to fund nonproliferation programs, thus allowing the use of additional resources for these purposes; and

“(2) to help ensure that the resources made available to the Russian Federation are targeted to the accomplishment of the United States objectives described in the findings set forth in subsection (a).

“SEC. 1313. DEFINITIONS.

“In this subtitle:

“(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means—

“(A) the Committee on International Relations [now Committee on Foreign Affairs] and the Committee on Appropriations of the House of Representatives; and

“(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

“(2) COST.—The term ‘cost’ has the meaning given that term in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)).

“(3) RUSSIAN FEDERATION NONPROLIFERATION INVESTMENT AGREEMENT OR AGREEMENT.—The term ‘Russian Federation Nonproliferation Investment Agreement’ or ‘Agreement’ means the agreement between the United States and the Russian Federation entered into under section 1315(a).

“(4) SOVIET-ERA DEBT.—The term ‘Soviet-era debt’ means debt owed as a result of loans or credits provided by the United States (or any agency of the United States) to the Union of Soviet Socialist Republics under the Lend Lease Act of 1941 [former 22 U.S.C. 411 et seq.] or the Commodity Credit Corporation Charter Act [15 U.S.C. 714 et seq.].

“(5) STATE SPONSOR OF INTERNATIONAL TERRORISM.—The term ‘state sponsor of international terrorism’ means those countries that have been determined by the Secretary of State, for the purposes of section 40 of the Arms Export Control Act [22 U.S.C. 2780], section 620A of the Foreign Assistance Act of 1961 [22 U.S.C. 2371], or [former] section 6(j) of the Export Administration Act of 1979 [former 50 U.S.C. 4605(j)], to have repeatedly provided support for acts of international terrorism.

“SEC. 1314. AUTHORITY TO REDUCE THE RUSSIAN FEDERATION’S SOVIET-ERA DEBT OBLIGATIONS TO THE UNITED STATES.

“(a) AUTHORITY TO REDUCE DEBT.—

“(1) IN GENERAL.—Upon the entry into force of a Russian Federation Nonproliferation Investment Agreement, the President may reduce amounts of Soviet-era debt owed by the Russian Federation to the United States (or any agency or instrumentality of the United States) that are outstanding as of the last day of the fiscal year preceding the fiscal year for which appropriations are available for the reduction of debt, in accordance with this subtitle.

“(2) LIMITATION.—The authority provided by paragraph (1) shall be available only to the extent that appropriations for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 [2 U.S.C. 661a(5)]) of reducing any debt pursuant to such subsection are made in advance.

“(3) SUPERSEDES EXISTING LAW.—The authority provided by paragraph (1) may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(r)) or section 321 of the International Development and Food Assistance Act of 1975 [Pub. L. 94-161, set out as a note under section 2220a of Title 22, Foreign Relations and Intercourse].

“(b) IMPLEMENTATION.—

“(1) DELEGATION OF AUTHORITY.—The President may delegate any authority conferred upon the President in this subtitle to the Secretary of State.

“(2) ESTABLISHMENT OF TERMS AND CONDITIONS.—Consistent with this subtitle, the President shall establish the terms and conditions under which loans and credits may be reduced pursuant to subsection (a).

“(3) IMPLEMENTATION.—In exercising the authority of subsection (a), the President—

“(A) shall notify—

“(i) the Department of State, with respect to obligations of the former Soviet Union under the Lend Lease Act of 1941 [former 22 U.S.C. 411 et seq.]; and

“(ii) the Commodity Credit Corporation, with respect to obligations of the former Soviet Union under the Commodity Credit Corporation Act [15 U.S.C. 713a et seq.];

“(B) shall direct the cancellation of old obligations and the substitution of new obligations consistent with the Russian Federation Nonproliferation Investment Agreement; and

“(C) shall direct the appropriate agency to make an adjustment in the relevant accounts to reflect the new debt treatment.

“(4) DEPOSIT OF REPAYMENTS.—All repayments of outstanding loan amounts under subsection (a) that are not designated under a Russian Federation Nonproliferation Investment Agreement shall be deposited in the United States Government accounts established for repayments of the original obligations.

“(5) NOT TREATED AS FOREIGN ASSISTANCE.—Any reduction of Soviet-era debt pursuant to this subtitle shall not be considered assistance for the purposes of any provision of law limiting assistance to a country.

“(c) AUTHORIZATION OF APPROPRIATION.—

“(1) IN GENERAL.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 [2 U.S.C. 661a(5)]) of modifying any Soviet-era debt obligation pursuant to subsection (a), there are authorized to be appropriated to the President such sums as may be necessary.

“(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

“SEC. 1315. RUSSIAN FEDERATION NONPROLIFERATION INVESTMENT AGREEMENT.

“(a) IN GENERAL.—

“(1) IN GENERAL.—The President is authorized to enter into an agreement with the Russian Federation under which an amount equal to the value of the debt reduced pursuant to section 1314 will be used to promote the nonproliferation of weapons of mass destruction and the means of delivering such weapons. An agreement entered into under this section may be

referred to as the ‘Russian Federation Nonproliferation Investment Agreement’.

“(2) CONGRESSIONAL NOTIFICATION.—The President shall notify the appropriate congressional committees at least 15 days in advance of the United States entering into a Russian Federation Nonproliferation Investment Agreement.

“(b) CONTENT OF THE AGREEMENT.—The Russian Federation Nonproliferation Investment Agreement shall ensure that—

“(1) an amount equal to the value of the debt reduced pursuant to this subtitle will be made available by the Russian Federation for agreed nonproliferation programs and projects;

“(2) each program or project funded pursuant to the Agreement will be approved by the President;

“(3) the administration and oversight of nonproliferation programs and projects will incorporate best practices from established threat reduction and nonproliferation assistance programs;

“(4) each program or project funded pursuant to the Agreement will be subject to monitoring and audits conducted by or for the United States Government to confirm that agreed funds are expended on agreed projects and meet agreed targets and benchmarks;

“(5) unobligated funds for investments pursuant to the Agreement will not be diverted to other purposes;

“(6) funds allocated to programs and projects pursuant to the Agreement will not be subject to any taxation by the Russian Federation;

“(7) all matters relating to the intellectual property rights and legal liabilities of United States firms in any project will be agreed upon before the expenditure of funds would be authorized for that project; and

“(8) not less than 75 percent of the funds made available for each nonproliferation program or project under the Agreement will be spent in the Russian Federation.

“(c) USE OF EXISTING MECHANISMS.—It is the sense of Congress that, to the extent practicable, the boards and administrative mechanisms of existing threat reduction and nonproliferation programs should be used in the administration and oversight of programs and projects under the Agreement.

“(d) JOINT AUDITING.—It is the sense of Congress that the United States and the Russian Federation should consider commissioning the United States Government Accountability Office and the Russian Chamber of Accounts to conduct joint audits to ensure that the funds saved by the Russian Federation as a result of any debt reduction are used exclusively, efficiently, and effectively to implement agreed programs or projects pursuant to the Agreement.

“(e) STRUCTURE OF THE AGREEMENT.—It is the sense of Congress that the Agreement should provide for significant penalties—

“(1) if funds obligated for approved programs or projects are determined to have been misappropriated; and

“(2) if the President is unable to make the certification required by section 1317(a) for two consecutive years.

“SEC. 1316. INDEPENDENT MEDIA AND THE RULE OF LAW.

“Notwithstanding section 1315 (a)(1) and (b)(1), up to 10 percent of the amount equal to the value of the debt reduced pursuant to this subtitle may be used to promote a vibrant, independent media sector and the rule of law in the Russian Federation through an endowment to support the establishment of a ‘Center for an Independent Press and the Rule of Law’ in the Russian Federation, which shall be directed by a joint United States-Russian Board of Directors in which the majority of members, including the chairman, shall be United States personnel, and which shall be responsible for management of the endowment, its funds, and the Center’s programs.

“SEC. 1317. RESTRICTION ON DEBT REDUCTION AUTHORITY.

“(a) PROLIFERATION TO STATE SPONSORS OF TERRORISM.—Subject to the provisions of subsection (c), the debt reduction authority provided by section 1314 may not be exercised unless and until the President certifies to the appropriate congressional committees that the Russian Federation has made material progress in stemming the flow of sensitive goods, technologies, material, and know-how related to the design, development, and production of weapons of mass destruction and the means to deliver them to state sponsors of international terrorism.

“(b) ANNUAL DETERMINATION.—If, in any annual report to Congress submitted pursuant to [former] section 1321, the President cannot certify that the Russian Federation continues to meet the condition required in subsection (a), then, subject to the provisions of subsection (c), the debt reduction authority provided by section 1314 may not be exercised unless and until such certification is made to the appropriate congressional committees.

“(c) PRESIDENTIAL WAIVER.—The President may waive the requirements of subsection (a) or (b) for a fiscal year if the President—

“(1) determines that application of the subsection for a fiscal year would be counter to the national interest of the United States; and

“(2) so reports to the appropriate congressional committees.

“SEC. 1318. DISCUSSION OF RUSSIAN FEDERATION DEBT REDUCTION FOR NONPROLIFERATION WITH OTHER CREDITOR STATES.

“It is the sense of Congress that the President and such other appropriate officials as the President may designate should pursue discussions with other creditor states with the objectives of—

“(1) ensuring that other advanced industrial democracies, especially the largest holders of Soviet-era Russian debt, dedicate significant proportions of their bilateral official debt with the Russian Federation or equivalent amounts of direct assistance to the G-8 Global Partnership against the Spread of Weapons and Materials of Mass Destruction, as agreed upon in the Statement by G-8 Leaders on June 27, 2002; and

“(2) reaching agreement, as appropriate, to establish a unified Russian Federation official debt reduction fund to manage and provide financial transparency for the resources provided by creditor states through debt reductions.

“SEC. 1319. IMPLEMENTATION OF UNITED STATES POLICY.

“It is the sense of Congress that implementation of debt-for-nonproliferation programs with the Russian Federation should be overseen by the coordinating mechanism established pursuant to section 1334 of this Act [50 U.S.C. 2357b].

“SEC. 1320. CONSULTATIONS WITH CONGRESS.

“The President shall consult with the appropriate congressional committees on a periodic basis to review the implementation of this subtitle and the Russian Federation’s eligibility for debt reduction pursuant to this subtitle.

“[SEC. 1321. Repealed. Pub. L. 112-74, div. I, title VII, § 7034(n), Dec. 23, 2011, 125 Stat. 1217.]”

§ 2357c. Purposes and authority

(a) Purposes

(1) In general

The primary purpose of the coordination mechanism established pursuant to section 2357b of this title should be—

(A) to exercise continuing responsibility for coordinating worldwide United States

nonproliferation and threat reduction efforts to ensure that they effectively implement United States policy; and

(B) to enhance the ability of participating departments and agencies to anticipate growing nonproliferation areas of concern.

(2) Program monitoring and coordination

The coordination mechanism established pursuant to section 2357b of this title should have primary continuing responsibility within the executive branch of the Government for—

(A) United States nonproliferation and threat reduction efforts, and particularly such efforts in the independent states of the former Soviet Union; and

(B) coordinating the implementation of United States policy with respect to such efforts.

(b) Authority

In carrying out the responsibilities described in subsection (a), the coordination mechanism established pursuant to section 2357b of this title should have, at a minimum, the authority to—

(1) establish such subcommittees and working groups as it deems necessary;

(2) direct the preparation of analyses on issues and problems relating to coordination within and among United States departments and agencies on nonproliferation and threat reduction efforts;

(3) direct the preparation of analyses on issues and problems relating to coordination between the United States public and private sectors on nonproliferation and threat reduction efforts, including coordination between public and private spending on nonproliferation and threat reduction programs and coordination between public spending and private investment in defense conversion activities of the independent states of the former Soviet Union;

(4) provide guidance on arrangements that will coordinate, deconflict, and maximize the utility of United States public spending on nonproliferation and threat reduction programs, and particularly such efforts in the independent states of the former Soviet Union;

(5) encourage companies and nongovernmental organizations involved in nonproliferation efforts of the independent states of the former Soviet Union or other countries of concern to voluntarily report these efforts to it;

(6) direct the preparation of analyses on issues and problems relating to the coordination between the United States and other countries with respect to nonproliferation efforts, and particularly such efforts in the independent states of the former Soviet Union; and

(7) consider, and make recommendations to the President with respect to, proposals for such new legislation or regulations relating to United States nonproliferation efforts as may be necessary.

(Pub. L. 107-228, div. B, title XIII, § 1335, Sept. 30, 2002, 116 Stat. 1450.)

§ 2357d. Administrative support

All United States departments and agencies shall provide, to the extent permitted by law,