

REFERENCES IN TEXT

Title XIV of the National Defense Authorization Act for Fiscal Year 1993, referred to in par. (1), is title XIV of div. A of Pub. L. 102-484, Oct. 23, 1992, 106 Stat. 2563, known as the Former Soviet Union Demilitarization Act of 1992, which is classified generally to chapter 68 (§5901 et seq.) of Title 22, Foreign Relations and Inter-course.

AMENDMENTS

1998—Par. (1). Pub. L. 105-261 substituted “title XIV of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 22 U.S.C. 5901 et seq.)” for “the National Defense Authorization Act for Fiscal Years 1993 and 1994”.

§ 2364. Purchase of low-enriched uranium derived from Russian highly enriched uranium

(a) Sense of Congress

It is the sense of Congress that the allies of the United States and other nations should participate in efforts to ensure that stockpiles of weapons-grade nuclear material are reduced.

(b) Actions by Secretary of State

Congress urges the Secretary of State to encourage, in consultation with the Secretary of Energy, other countries to purchase low-enriched uranium that is derived from highly enriched uranium extracted from Russian nuclear weapons.

(Pub. L. 104-201, div. A, title XIV, § 1454, Sept. 23, 1996, 110 Stat. 2730.)

§ 2365. Sense of Congress concerning purchase, packaging, and transportation of fissile materials at risk of theft

It is the sense of Congress that—

(1) the Secretary of Defense, the Secretary of Energy, the Secretary of the Treasury, and the Secretary of State should purchase, package, and transport to secure locations weapons-grade nuclear materials from a stockpile of such materials if such officials determine that—

(A) there is a significant risk of theft of such materials; and

(B) there is no reasonable and economically feasible alternative for securing such materials; and

(2) if it is necessary to do so in order to secure the materials, the materials should be imported into the United States, subject to the laws and regulations that are applicable to the importation of such materials into the United States.

(Pub. L. 104-201, div. A, title XIV, § 1455, Sept. 23, 1996, 110 Stat. 2731.)

§ 2366. Repealed. Pub. L. 112-239, div. A, title X, § 1065(c), Jan. 2, 2013, 126 Stat. 1943, and Pub. L. 112-277, title III, § 310(a)(1), Jan. 14, 2013, 126 Stat. 2474

Section, Pub. L. 104-293, title VII, § 721, Oct. 11, 1996, 110 Stat. 3474; Pub. L. 107-306, title VIII, § 811(b)(5)(C), Nov. 27, 2002, 116 Stat. 2424; Pub. L. 108-177, title III, § 361(k), Dec. 13, 2003, 117 Stat. 2626, required annual reports on acquisition of technology relating to weapons of mass destruction and advanced conventional munitions.

§ 2367. Reports on acquisition of technology relating to weapons of mass destruction and the threat posed by weapons of mass destruction, ballistic missiles, and cruise missiles

(a) Annual report

Not later than January 30 of each year, the Secretary of Defense, in consultation with the Director of National Intelligence, shall submit to the appropriate congressional committees a report on the following:

(1) The threats posed to the United States and allies of the United States—

(A) by weapons of mass destruction, ballistic missiles, and cruise missiles; and

(B) by the proliferation of weapons of mass destruction, ballistic missiles, and cruise missiles.

(2) The acquisition by foreign countries during the preceding 12 months of dual-use and other technology useful for the development or production of weapons of mass destruction (including nuclear weapons, chemical weapons, and biological weapons) and advanced conventional munitions.

(3) Any trends with respect to the acquisition described in paragraph (2).

(b) Matters included

Each report submitted under subsection (a) shall include the following:

(1) Identification of each foreign country and non-State organization that possesses weapons of mass destruction, ballistic missiles, or cruise missiles, and a description of such weapons and missiles with respect to each such foreign country and non-State organization.

(2) A description of the means by which any foreign country and non-State organization that has achieved, or is making progress toward achieving, capability with respect to weapons of mass destruction, ballistic missiles, or cruise missiles has achieved, or is making progress toward achieving, that capability, including a description of the international network of foreign countries and private entities that provide assistance to foreign countries and non-State organizations in achieving that capability.

(3) An examination of the doctrines that guide the use of weapons of mass destruction in each foreign country that possesses such weapons.

(4) An examination of the existence and implementation of the control mechanisms that exist with respect to nuclear weapons in each foreign country that possesses such weapons.

(5) Identification of each foreign country and non-State organization that seeks to acquire or develop (indigenously or with foreign assistance) weapons of mass destruction, ballistic missiles, or cruise missiles, and a description of such weapons and missiles with respect to each such foreign country and non-State organization.

(6) An assessment of various possible timelines for the achievement by foreign countries and non-State organizations of capability with respect to weapons of mass destruction, ballis-

tic missiles, and cruise missiles, taking into account the probability of whether foreign countries that are a party to the Missile Technology Control Regime will comply with and enforce the regime, the potential availability of assistance from foreign technical specialists, and the potential for independent sales by foreign private entities without authorization from their national governments.

(7) For each foreign country or non-State organization that has not achieved the capability to target the United States or its territories with weapons of mass destruction, ballistic missiles, or cruise missiles as of January 2, 2013, an estimate of how far in advance the United States is likely to be warned before such foreign country or non-State organization achieves that capability.

(8) For each foreign country or non-State organization that has not achieved the capability to target members of the Armed Forces of the United States deployed abroad with weapons of mass destruction, ballistic missiles, or cruise missiles as of January 2, 2013, an estimate of how far in advance the United States is likely to be warned before such foreign country or non-State organization achieves that capability.

(c) Classification

Each report submitted under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(d) Appropriate congressional committees defined

In this section, the term “appropriate congressional committees” means the following:

- (1) The congressional defense committees.
- (2) The congressional intelligence committees (as defined in section 3003 of this title).
- (3) The Speaker and the minority leader of the House of Representatives and the majority leader and the minority leader of the Senate.

(Pub. L. 105–85, div. A, title II, §234, Nov. 18, 1997, 111 Stat. 1664; Pub. L. 112–239, div. A, title X, §1065(a), Jan. 2, 2013, 126 Stat. 1941.)

CODIFICATION

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 1998, and not as part of the Defense Against Weapons of Mass Destruction Act of 1996 which comprises this chapter.

AMENDMENTS

2013—Pub. L. 112–239 amended section generally. Prior to amendment, section related to annual report on threat posed to United States by weapons of mass destruction, ballistic missiles, and cruise missiles.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of Title 10, Armed Forces.

DEVELOPMENT OF STRATEGY ON RISKS TO NON-PROLIFERATION CAUSED BY ADDITIVE MANUFACTURING

Pub. L. 114–92, div. C, title XXXI, §3139, Nov. 25, 2015, 129 Stat. 1215, as amended by Pub. L. 114–328, div. C, title XXXI, §3137(d), Dec. 23, 2016, 130 Stat. 2772, provided that:

“(a) STRATEGY.—The President shall develop and pursue a strategy to address the risks to the goals and

policies of the United States regarding nuclear non-proliferation that are caused by the increased use of additive manufacture technology (commonly referred to as ‘3D printing’), including such technology that does not originate in the United States.

“(b) BRIEFINGS.—

“(1) IN GENERAL.—Not later than March 31, 2016, and annually thereafter through 2019, the President shall provide to the appropriate congressional committees a briefing on the strategy developed under subsection (a).

“(2) INTERIM BRIEFINGS.—In addition to the briefings required by paragraph (1), the President shall provide to the appropriate congressional committees a notification or briefing if there is a development in additive manufacture technology, or increased use of additive manufacture technology, that could pose an increased risk to the United States from nuclear proliferation.

“(c) PURSUIT OF STRATEGY.—The President shall pursue the strategy developed under subsection (a) at the Nuclear Security Summit in Chicago, Illinois, in 2016.

“(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ‘appropriate congressional committees’ means the following:

“(1) The congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives].

“(2) The Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

“(3) The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.”

[Memorandum of President of the United States, Mar. 18, 2016, 81 F.R. 15419, delegated to the Director of National Intelligence and the Under Secretary for Nuclear Security the functions and authorities vested in the President by section 3139(a) and (b) of Pub. L. 114–92, set out above.]

REPORT ON IRAN’S CAPABILITY TO PRODUCE NUCLEAR WEAPONS

Pub. L. 110–417, [div. A], title XII, §1234, Oct. 14, 2008, 122 Stat. 4640, provided that:

“(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Oct. 14, 2008], and annually thereafter, the Director of National Intelligence shall submit to Congress a report on Iran’s capability to produce nuclear weapons. The report required under this subsection may be submitted in classified form.

“(b) MATTERS TO BE INCLUDED.—The report required under subsection (a) shall include the following:

“(1) The locations, types, and number of centrifuges and other specialized equipment necessary for the enrichment of uranium and any plans to acquire, manufacture, and operate such equipment in the future.

“(2) An estimate of the amount, if any, of highly enriched uranium and weapons grade plutonium acquired or produced to date, an estimate of the amount of weapons grade plutonium that is likely to be produced or acquired in the near- and midterms and the amount of highly enriched uranium that is likely to be produced or acquired in the near- and midterms, and the number of nuclear weapons that could be produced with such materials.

“(3) A evaluation of the extent to which security and safeguards at any nuclear site prevent, slow, verify, or help monitor the enrichment of uranium or the reprocessing of plutonium into weapons-grade materials.

“(4) A description of any weaponization activities, such as the research, design, development, or testing of nuclear weapons or weapons-related components.

“(5) A description of any programs to construct, acquire, test, or improve methods to deliver nuclear weapons, including an assessment of the likely progress of such programs in the near- and midterms.

“(6) A summary of assessments made by allies of the United States of Iran’s nuclear weapons program and nuclear-capable delivery systems programs.

“(c) NOTIFICATION.—The President shall notify Congress, in writing, within 15 days of determining that—

- “(1) Iran has resumed a nuclear weapons program;
- “(2) Iran has met or surpassed any major milestone in its nuclear weapons program; or
- “(3) Iran has undertaken to accelerate, decelerate, or cease the development of any significant element within its nuclear weapons program.”

“CONGRESSIONAL DEFENSE COMMITTEES” DEFINED

Congressional defense committees means the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the House of Representatives, see section 3 of Pub. L. 105–85, 111 Stat. 1645. See note under section 101 of Title 10, Armed Forces.

§ 2368. Annual reports on the proliferation of missiles and essential components of nuclear, biological, chemical, and radiological weapons

(a) Report

Not later than March 1, 2003, and annually thereafter, the President shall transmit to the designated congressional committees an annual report on the transfer by any country of weapons, technology, components, or materials that can be used to deliver, manufacture (including research and experimentation), or weaponize nuclear, biological, chemical or radiological weapons (in this section referred to as “NBC weapons”) to any country other than a country referred to in subsection (d) that is seeking to possess or otherwise acquire such weapons, technology, or materials, or other system that the Secretary or the Secretary of Defense has reason to believe could be used to develop, acquire, or deliver NBC weapons.

(b) Matters to be included

Each such report shall include—

- (1) the transfer of all aircraft, cruise missiles, artillery weapons, unguided rockets and multiple rocket systems, and related bombs, shells, warheads and other weaponization technology and materials that the Secretary or the Secretary of Defense has reason to believe may be intended for the delivery of NBC weapons;
- (2) international transfers of MTCR equipment or technology to any country that is seeking to acquire such equipment or any other system that the Secretary or the Secretary of Defense has reason to believe may be used to deliver NBC weapons; and
- (3) the transfer of technology, test equipment, radioactive materials, feedstocks and cultures, and all other specialized materials that the Secretary or the Secretary of Defense has reason to believe could be used to manufacture NBC weapons.

(c) Content of report

Each such report shall include the following with respect to preceding¹ calendar year:

- (1) The status of missile, aircraft, and other NBC weapons delivery and weaponization pro-

grams in any such country, including efforts by such country or by any subnational group to acquire MTCR-controlled equipment, NBC-capable aircraft, or any other weapon or major weapon component which may be utilized in the delivery of NBC weapons, whose primary use is the delivery of NBC weapons, or that the Secretary or the Secretary of Defense has reason to believe could be used to deliver NBC weapons.

(2) The status of NBC weapons development, acquisition, manufacture, stockpiling, and deployment programs in any such country, including efforts by such country or by any subnational group to acquire essential test equipment, manufacturing equipment and technology, weaponization equipment and technology, and radioactive material, feedstocks or components of feedstocks, and biological cultures and toxins.

(3) A description of assistance provided by any person or government, after September 30, 2002, to any such country or subnational group in the acquisition or development of—

- (A) NBC weapons;
- (B) missile systems, as defined in the MTCR or that the Secretary or the Secretary of Defense has reason to believe may be used to deliver NBC weapons; and
- (C) aircraft and other delivery systems and weapons that the Secretary or the Secretary of Defense has reason to believe could be used to deliver NBC weapons.

(4) A listing of those persons and countries that continue to provide such equipment or technology described in paragraph (3) to any country or subnational group as of the date of submission of the report, including the extent to which foreign persons and countries were found to have knowingly and materially assisted such programs.

(5) A description of the use of, or substantial preparations to use, the equipment of technology described in paragraph (3) by any foreign country or subnational group.

(6) A description of the diplomatic measures that the United States, and that other adherents to the MTCR and other arrangements affecting the acquisition and delivery of NBC weapons, have made with respect to activities and private persons and governments suspected of violating the MTCR and such other arrangements.

(7) An analysis of the effectiveness of the regulatory and enforcement regimes of the United States and other countries that adhere to the MTCR and other arrangements affecting the acquisition and delivery of NBC weapons in controlling the export of MTCR and other NBC weapons and delivery system equipment or technology.

(8) A summary of advisory opinions issued under section 4612(b)(4) of this title and under section 2797b(d) of title 22.

(9) An explanation of United States policy regarding the transfer of MTCR equipment or technology to foreign missile programs, including programs involving launches of space vehicles.

(10) A description of each transfer by any person or government during the preceding 12-

¹ So in original. Probably should be preceded by “the”.