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EMERGENCY REGARDING PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A 6-MONTH PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION THAT WAS DECLARED IN EXECUTIVE ORDER 12938 OF NOVEMBER 14, 1994, PURSUANT TO 50 U.S.C. 1703(c) AND 50 U.S.C. 1641(c)

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To the Congress of the United States:

As required by section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), I transmit herewith a 6-month periodic report prepared by my Administration on the national emergency with respect to the proliferation of weapons of mass destruction that was declared in Executive Order 12938 of November 14, 1994.

GEORGE W. BUSH.

THE WHITE HOUSE, *February 25, 2003.*

PERIODIC REPORT TO CONGRESS ON THE NATIONAL EMERGENCY REGARDING PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

This report to the Congress addresses the developments over the past 6 months concerning the national emergency with respect to the proliferation of weapons of mass destruction (WMD)—nuclear, chemical, and biological weapons—and the means of delivering such weapons, that was declared in Executive Order 12938 on November 14, 1994, as amended by Executive Order 13094 of July 28, 1998. This report is submitted pursuant to section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c) and section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c). It reports actions taken and expenditures incurred pursuant to the emergency declaration only during the period of May 15, 2002 through November 12, 2002.

To address the dangers posed by the proliferation of WMD and their delivery systems, on November 14, 1994, President Clinton issued Executive Order 12938, declaring a national emergency under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.). On July 28, 1998, President Clinton, pursuant to the provisions of IEEPA, issued E.O. 13094 to amend E.O. 12938 in order to respond more effectively to the worldwide threat of WMD proliferation. Under section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), the national emergency terminates on the anniversary date of its declaration unless, within the ninety-day period prior to each anniversary date, the President publishes a Continuation of Emergency Regarding Weapons of Mass Destruction in the *Federal Register* and transmits the notice to the Congress. The national emergency was extended on November 14, 1995; November 12, 1996; November 13, 1997; November 12, 1998; November 10, 1999; November 12, 2000; November 9, 2001; and November 12, 2002.

Weapons of mass destruction—nuclear, chemical, and biological weapons—and their missile delivery systems in the hands of potential adversary states and terrorists are among the top threats to U.S. security in the post-Cold War world. In the hands of countries like those on the U.S. list of terrorist-supporting states, these weapons would pose direct threats to the United States and its forces, friends and allies. Some of these rogue states are already working on intercontinental-range missiles that would be able to deliver WMD against our homeland directly.

This Administration has given high priority to dealing with the threat of WMD and missile proliferation. The September 11, 2001 terrorist attacks in New York and Washington and subsequent anthrax crimes reinforce the importance of efforts to prevent the proliferation of these weapons, especially to terrorists and countries that harbor terrorists.

Additional information on nuclear, missile and/or chemical and biological weapons nonproliferation efforts may be found in the following reports: (a) the most recent annual Report on the Proliferation of Missiles and Essential Components of Nuclear, Biological and Chemical Weapons, provided to Congress pursuant to Section 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190), also known as the "Nonproliferation Report;" (b) the most recent semi-annual Report to Congress on the Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions, provided to Congress pursuant to Section 721 of the Intelligence Authorization Act for Fiscal Year 1997; (c) the most recent annual report entitled "Adherence to and Compliance with Arms Control Agreements," provided pursuant to section 403 of the Arms Control and Disarmament Act, 22 U.S.C. 2593a; (d) the most recent report on the Democratic People's Republic of Korea, provided pursuant to Section 585 of the Foreign Operations, Export, Financing, and Related Programs Appropriations Act of 1997 (Public Law 104–208); (e) the most recent report on Nuclear Nonproliferation Policy in South Asia, provided pursuant to Public Law 102–391, Section 585; (f) the most recent Report on Regional Nonproliferation in South Asia, submitted pursuant to Section 620F(c) of Foreign Assistance Act; (g) the most recent Nuclear Nonproliferation Report known as the "section 601 Report," submitted pursuant to Section 601 of the Nuclear Nonproliferation Act of 1978 (Public Law 95–242), as amended by the Nuclear Proliferation Prevention Act of 1994; (h) the most recent semiannual report on Proliferation-Related Transfers to Iran, submitted pursuant to Iran Nonproliferation Act of 2000; (i) the most recent report on the Iran-Iraq Arms Nonproliferation Act of 1992, sections 1604–1608; and (j) the most recent report on Libya sanctions, provided pursuant to Iran and Libya Sanctions Act of 1996, section 5(b).

NUCLEAR WEAPONS

Nuclear Non-Proliferation Treaty: The Treaty on the Non-Proliferation of Nuclear Weapons (NPT) is the cornerstone of the global effort to halt nuclear proliferation. The first meeting of the Preparatory Committee (PrepCom) for the 2005 NPT Review Conference (RevCon) took place April 8–19, 2002, at U.N. headquarters in New York. The PrepCom successfully completed its work by issuing the Chairman's report—a factual summary for transmission to PrepCom II, which will take place in Geneva from April 28 to May 9, 2003, under the Chairmanship of Hungarian Ambassador Laszlo Molnar.

The United States engaged in consultations with Ambassador Molnar in June, August, and October of 2002. These consultations focused on key procedural and substantive issues relevant to PrepCom II. Wide-ranging bilateral discussions with several key NPT parties were also held in Washington, Budapest, Geneva, London, and New York. The five Nuclear Weapons States of the NPT (U.S., U.K., France, Russia, and China) also met in New York to discuss their approach to PrepCom II.

The United States continues to emphasize the importance of compliance with the NPT and looks forward to PrepCom II as an

opportunity for further discussion of ways and means to implement the Treaty. The United States will continue to meet all of its obligations under the NPT and notes that the signing on May 21, 2002 of the Moscow Treaty for the reduction of deployed strategic offensive nuclear weapons demonstrates that the United States continues to meet its obligations under the nuclear disarmament-related provisions of Article VI of the NPT.

Iraq's and North Korea's noncompliance with the NPT remains of primary concern as set forth below. North Korea's admission in October 2002 of a secret uranium enrichment project further underscored the requirement to bring North Korea into compliance with the NPT. Iran's nuclear program is also aimed at the acquisition of nuclear weapons in violation of its NPT undertakings.

Another significant development during the reporting period was Cuba's announcement on September 14, 2002, that it intends to become a party to the NPT.

International Atomic Energy Agency: The International Atomic Energy Agency (IAEA), inter alia, verifies the compliance of nonnuclear weapons states with their NPT safeguards obligations. The IAEA safeguards system helps deter diversion of nuclear materials and provides a means to detect diversions in a timely manner should any occur. During this reporting period, the United States continued to provide significant technical and financial resources to support IAEA safeguards activities.

The discovery of Iraq's extensive covert nuclear activities after the Persian Gulf War led to an effort to strengthen the IAEA safeguards system's ability to detect undeclared nuclear material and activities. The United States, along with a large number of other IAEA members, negotiated in the mid-1990s substantial safeguards strengthening measures, including the use of environmental sampling techniques, expansion of the information related to nuclear activities which States are required to declare, and expansion of IAEA access rights. Those measures are embodied in a Model Additional Protocol, approved in 1997. With these tools, the IAEA's capability to detect and assess a state's undeclared nuclear activity is substantially enhanced. This Protocol has now been signed by 61 states and has entered into force for 24 countries.

On May 9, 2002, the President submitted the U.S.-IAEA Additional Protocol to the Senate for advice and consent to ratification. In doing so, he emphasized that entry into force of the U.S.-IAEA Additional Protocol will bolster U.S. efforts to strengthen nuclear safeguards and therefore promote the nonproliferation of nuclear weapons, which is a cornerstone of U.S. foreign and national security policy.

At the September 16–20, 2002 IAEA General Conference, the IAEA's Director General reiterated the Agency's strong commitment to stemming the proliferation of nuclear and radiological weapons. He explained the Agency's continued efforts in combating the threat of nuclear terrorism. A resolution on countering nuclear terrorism, proposed by the European Union (EU), was adopted, praising the IAEA for its significantly greater efforts in nuclear security and urging Member States to improve their national programs to secure radioactive materials. A resolution was adopted charging the IAEA to ascertain whether Iraq's nuclear activities

and capabilities had changed since December 1998. A resolution on the strengthening of the Agency's safeguards system was adopted, urging States that have not yet done so to sign and ratify Additional Protocols. A resolution on the Democratic People's Republic of Korea (DPRK) NPT safeguards agreement was adopted by consensus. More states cosponsored the resolution than last year, indicating increased international concern over the DPRK's non-compliance with its safeguards agreement.

The Zangger Committee: The purpose of the 35-nation NPT Exporters (Zangger) Committee is to harmonize implementation of the NPT's requirement to apply IAEA safeguards to nuclear exports. Article III.2 of the Treaty requires parties to ensure that IAEA safeguards are applied to exports to non-nuclear weapons states of (a) source or special fissionable material, or (b) equipment or material especially designed or prepared for the processing, use or production of special fissionable material. The Committee maintains and updates a list of equipment and materials that may only be exported if safeguards are applied to the recipient facility (called the "Trigger List" because such exports trigger the requirement for safeguards).

The Zangger Committee is informal and its decisions are not legally binding upon its members. The relative informality of the Zangger Committee has enabled it to take the lead on certain nonproliferation issues that would be more difficult to resolve in the Nuclear Suppliers Group (NSG). The Zangger Committee, by virtue of its link to the NPT, is in a better position to represent the nuclear nonproliferation regimes in dialogue with non-members critical of these regimes in NPT meetings.

All of the NPT Nuclear Weapons States, including China, are members of the Zangger Committee. However, China is the only member of the Zangger Committee that is not also a member of the NSG, which requires full-scope safeguards (FSS) as a condition of nuclear supply to non-nuclear weapons states. China has not been willing to accept the FSS policy, but its export control lists are comparable, if not virtually identical, to the NSG's.

At the October 2002 meeting, the Committee again discussed the application of Belarus for membership. The United States is still not prepared to join a consensus for acceptance of Belarus because of concern regarding that Government's commitment to nonproliferation.

The Committee also continued discussion of possible outreach activities with non-member NPT Party countries, particularly Non-Aligned Movement countries. The Committee also considered proposals by the Chairman to engage in new areas of activity in the post-9/11 environment, including: (1) serving as a technical resource for non-member NPT Parties; (2) encouraging early ratification by states of the Additional Protocol to strengthen IAEA safeguards; and (3) adopting anti-terrorism measures. Efforts will continue to reach agreement on inclusion of plutonium isotope separation equipment on the Trigger List, through technology-holders meetings chaired by Sweden.

The Nuclear Suppliers Group: The NSG was formed in 1974 following the Indian nuclear explosion, which demonstrated how nuclear technology and materials transferred for peaceful purposes

could be misused. With 40 member states, the NSG is a widely accepted, mature, and effective export control arrangement that contributes to the nonproliferation of nuclear weapons through implementation of guidelines for control of nuclear and nuclear-related exports. Members pursue the aims of the NSG through voluntary adherence to the NSG Guidelines, which are adopted by consensus, and through exchanges of information on developments of nuclear proliferation concern.

Nuclear suppliers took note when the 1990 NPT RevCon committee on implementation of Article III recommended that NPT Parties: (a) consider further improvements in measures to prevent diversion of nuclear technology for nuclear weapons; (b) coordinate controls of exports of significant nuclear-related items; and (c) require full-scope safeguards as a condition of nuclear supply to non-nuclear weapons states. Shortly thereafter, it became apparent that nuclear export controls had not prevented Iraq, a Party to the NPT, from aiding its clandestine nuclear weapons program through acquisition of significant dual-use items. In response to these developments, the NSG decided in 1992 to: (a) establish guidelines for control of transfers of nuclear-related dual-use equipment, materials, and technology which could make a significant contribution to unsafeguarded nuclear fuel cycle or nuclear explosive activities; and (b) adopt a policy of requiring full scope IAEA safeguards as a condition of supply for nuclear Trigger List items to non-nuclear weapons states.

The NSG Guidelines, first published in 1978, established requirements for: (1) formal recipient government assurances confirming safeguards and no nuclear explosive use; (2) adequate physical protection; and (3) particular caution in the transfer of sensitive facilities, technology, and weapons-useable materials. The Guidelines also strengthened retransfer conditions. The first set of NSG Guidelines (Part 1) cover the "Trigger List" of nuclear materials and equipment whose export requires the application of full-scope IAEA safeguards in the recipient country. The second set of NSG Guidelines (Part 2) governs exports of nuclear-related dual-use equipment and materials. The NSG Guidelines also control technology related to both nuclear and nuclear-related dual-use exports. Both Parts 1 and 2 of the NSG Guidelines aim to ensure that nuclear trade for peaceful purposes does not contribute to the proliferation of nuclear weapons or explosive devices while not hindering such trade.

Chairmanship of the NSG rotates on an annual basis with the host of the annual Plenary meetings assuming the Chair for that year. As mandated by the 2001 Plenary, the NSG Consultative Group (CG) meets at least twice a year to coordinate both Part 1 and Part 2 issues such as review of the Guidelines and control lists, procedures, information sharing, transparency, and outreach activities. The Permanent Mission of Japan in Vienna serves as the NSG Point of Contact in providing administrative support, including provision of meeting space and distribution of documents.

The Czech Republic hosted the 2002 NSG Plenary and related meetings in Prague, May 13–17, 2002. On May 13, the first Licensing and Enforcement Exports Meeting (LEEM) was held as a trial run under the chairmanship of the U.K. and under the aegis of the

Information Exchange Meeting (IEM). LEEM participants made presentations on licensing and enforcement infrastructure and coordination as well as case studies. NSG members agreed that the LEEM was successful and should become a regular part of Plenary week. The IEM was also very successful, with 18 presentations by nine Participating Governments on nuclear activities of concern, analyses of export denials, and technical briefings.

The CG met on May 14 and 15, 2002 and discussed U.S. anti-terrorism proposals, including amendments to the Guidelines and expanded information sharing. There was broad support in principle for addressing the issue of nuclear terrorism, although some delegations suggested a cautious approach on any amendments to the Guidelines. The CG recommended and the Plenary agreed to continue discussion of the anti-terrorism proposal.

The Plenary met on May 16 and 17, 2002. The Czech Republic acceded to the Chair of the NSG. Kazakhstan was welcomed as a newly admitted member. The U.S. Acting Outgoing NSG Chair reported on activities and work of the NSG since May 2001, including outreach contacts with non-member governments. The Plenary authorized the new NSG Chair to continue outreach contacts with China, Egypt, India, Iran, and Pakistan and initiate contacts with Malaysia, Mexico, Indonesia, and Israel. Many delegations expressed continued concern over differing interpretations within the NSG of the NSG Guidelines, particularly if such interpretations undermine the credibility of the NSG and the objectives of the NPT (e.g., the situation created by Russian nuclear supply to India). This issue will continue to be discussed at future NSG meetings. The Plenary welcomed the offer of the Republic of Korea to host the 2003 Plenary in May 2003.

In September 2002, the NSG held an informal Plenary meeting in Vienna to discuss U.S. proposals to add anti-terrorism language to the Guidelines. During its October 2002 meeting in Vienna, the NSG CG continued discussion of the U.S. anti-terrorism proposal and considered U.S. proposals to enhance information sharing. The issue of differing interpretations within the NSG of the full-scope safeguards provisions of the Guidelines also was discussed. The NSG Chair reported on his September 2002 outreach meetings with non-NSG members.

South Asia Nuclear: Since their May 1998 nuclear tests, India and Pakistan have openly pursued their respective nuclear weapon programs and have continued to increase their stockpiles of fissile material. Both maintain active ballistic missile programs and have flight-tested short- and medium-range ballistic missiles. Each could deploy nuclear weapons in a short period of time. The United States has raised its WMD and missile proliferation-related concerns with Indian and Pakistani officials on many occasions, calling on them to: maintain their nuclear testing moratoria; not assemble nuclear weapons; bring an end to the production of fissile material; return any missiles deployed during the current crisis to pre-crisis status as soon as possible; limit flight-tests of ballistic missiles; resume their bilateral dialogue; bring their export controls in line with international standards; prevent transfers to other countries related to missiles, nuclear, chemical, or biological weapons; and

help prevent proliferation globally. We seek a dialogue with both countries on these issues that is collaborative and constructive.

Some progress has been achieved in bringing Indian and Pakistani export controls into closer conformity with international standards. In April 2000, India instituted new, more specific regulations on many categories of sensitive non-nuclear equipment and technology and has said that nuclear-related regulations will be forthcoming; in September 2000 it agreed to strengthen its export control laws and practices. In July 2001, Pakistan publicly announced regulations restricting nuclear exports and has indicated that further measures are being prepared. Even so, we are concerned about the potential for Pakistani nuclear assistance to rogue nations. Both countries' controls fall short of international standards. We have offered to both India and Pakistan technical cooperation activities designed to improve the effectiveness of their export controls, and encourage further steps to bring controls in line with international standards. In August of 2001 the United States began such talks with India; Pakistan has indicated interest in the U.S. offer.

U.S.–DPRK Agreed Framework: In October 2002, Assistant Secretary of State James Kelly advised the North Koreans that we had recently acquired information that indicated North Korea had embarked on a secret nuclear weapons program based on uranium enrichment, which the DPRK then acknowledged. This nuclear weapons program is a violation of the Agreed Framework, the NPT, North Korea's IAEA Safeguards Agreement, and the Joint North-South Declaration on the Denuclearization of the Korean Peninsula. The United States has called on the DPRK to take immediate steps to eliminate verifiably its enrichment program and is consulting closely with Congress, friends, and allies on next steps to address this grave violation of North Korea's international commitments.

In October 1994, the United States and North Korea signed the Agreed Framework in an effort to resolve concerns about North Korea's nuclear weapons program and bring the DPRK into compliance with its NPT commitments. As part of the Agreed Framework, North Korea undertook to freeze and dismantle its graphite-moderated nuclear reactors and related facilities at Yongbyon and Taechon. It also undertook to remain party to the NPT and come into full compliance with its IAEA safeguards agreement, including taking all steps deemed necessary by the IAEA when a significant portion of the light-water reactor is completed, but before delivery of key nuclear components.

During the reporting period, the freeze at the declared facilities remained in place, but North Korea had not begun safeguards cooperation with the IAEA despite knowing the IAEA's estimate of 3–4 years to complete the process to verify North Korea's nuclear past and the new target date for "significant portion" completion of May 2005. Canning of all accessible spent fuel rods and rod fragments from the DPRK's 5-megawatt graphite-moderated nuclear reactor was completed in April 2000. During the reporting period, the IAEA continued to monitor the canned fuel pending its ultimate removal from the DPRK once key nuclear components began to be delivered. A U.S. spent fuel team has periodically visited the

DPRK to perform routine maintenance operations and repair suspected leaking canisters.

Because of several concerns, including over North Korea's lack of cooperation with the IAEA in coming into compliance with the DPRK's full-scope safeguards agreement, President Bush waived the Congressional certification requirements for FY 2002 U.S. assistance (used primarily for heavy fuel oil (HFO) shipments) to the Korean Peninsula Energy Development Organization [KEDO]). Under the Agreed Framework, North Korea is to receive 500,000 tons of HFO annually, purchased through KEDO. The U.S. contribution covers HFO and KEDO's administrative expenses. The United States and other members of the KEDO board decided in November 2002 to suspend shipments of HFO in light of North Korea's violation of the Agreed Framework. The administration has requested $3.5 million for contingency funds to cover some administrative costs for KEDO, but is seeking no funds for HFO in 2003. The United States continues consultations with other KEDO board members with respect to the light water reactor project and the future of KEDO.

After the reporting period, the DPRK announced it was lifting the freeze on its nuclear facilities. It then began to cut IAEA seals and disable IAEA cameras at the sites, and expelled the IAEA inspectors. Subsequently, in January 2003, the DPRK announced it was withdrawing from the NPT.

Iran Nuclear: Despite its status as an NPT party, Iran maintains an active nuclear weapons development program. Among the persistent indicators that Iran is pursuing nuclear weapons is the fact that Iran is attempting to obtain capabilities to enrich uranium and to produce plutonium—both critical materials for a nuclear weapon. Neither of these capabilities is necessary to meet Iran's declared desire to have a civil nuclear power program to generate electricity, which is itself suspicious in light of Iran's abundant oil and natural gas resources.

For the time being, Iran's nuclear program remains dependent on external sources of supply. The United States has played the leading role in developing and maintaining a broad international consensus against assisting Iran's foreign procurement efforts. The United States denies Iran access to U.S. nuclear technology and material, and all major Western suppliers have agreed not to provide nuclear technology to Iran. A number of supplier states have abandoned potentially lucrative sales to Iran's nuclear program. Russia remains the most significant, but not only, exception to this virtual embargo on nuclear cooperation with Iran. The Administration is actively engaged with Russia in an attempt to resolve differences over the nature and scope of Russian cooperation with Iran's nuclear programs.

In August 2002, an Iranian opposition group asserted publicly that Iran is building a heavy water plant and a "fuel production plant." A review of commercially available imagery adds credibility to the group's charge and suggests the "fuel production plant" is actually a uranium enrichment facility. Iran would not build a heavy water plant unless it had plans to build a heavy water reactor. Iran's nuclear power program, currently limited to the one reactor at Bushehr that Russia is supplying, is based on light-water reac-

tor design. Thus, a heavy water production capability would be inconsistent with such a program, but would be a critical element in Iran's efforts to build and operate a reactor designed to maximize plutonium production. Iran also does not need an indigenous capability to produce enriched uranium for its power program; Russia has contracts to supply the low-enriched uranium fuel for Bushehr for the life of the reactor. An indigenous uranium enrichment capability, however, would enable Iran to produce highly enriched uranium for use in nuclear weapons.

Iraq Nuclear: President Bush, in his September 12, 2002 speech to the United Nations General Assembly, challenged the international community to enforce a decade's worth of Security Council resolutions and eliminate WMD, long-range missiles and all related materials from Saddam Hussein's Iraq. The Administration has successfully sought authorization from both Houses of Congress to use force, if necessary, to defend U.S. national security against the threat posed by Iraq and enforce all relevant United Nations Security Council Resolutions (UNSCR) regarding Iraq.

We continue to judge that Iraq retains its objective of acquiring nuclear weapons. We believe that Iraq increased its efforts to pursue some nuclear activity after U.N. inspections stopped in December 1998. Iraq's recent aggressive attempts to obtain proscribed high-strength aluminum tubes and other dual-use equipment and materials are of significant concern. Iraq also retains its cadre of nuclear scientists and technicians, program documentation, and dual-use manufacturing capabilities that could support a reconstituted nuclear weapons program. The acquisition of highly-enriched uranium or weapons-grade plutonium remains Iraq's biggest obstacle to a nuclear weapons capability.

On November 8, 2002, the U.N. Security Council unanimously passed UNSCR 1441, which gave Iraq a final opportunity to comply with its disarmament obligations. UNSCR 1441 called for Iraq to file a "currently accurate, full, and complete" declaration of its WMD and missile programs, and for "full and immediate" cooperation by Iraq with weapons inspectors. Finally, the resolution warned of "serious consequences" should Iraq fail to comply with its disarmament obligations. Thus, UNSCR 1441 was designed to test the regime's commitment to abandon WMD and illegal missile efforts. The activities under UNSCR 1441 have occurred after the period of this report. However, Iraq clearly has made no decision to disarm and is in material breach of its UNSCR obligations.

CHEMICAL AND BIOLOGICAL WEAPONS

Enhanced Proliferation Control Initiative (EPCI) Regulations: The export control regulations issued under the EPCI remain fully in force and continue to be administered by the Department of Commerce, in consultation with other agencies, in order to control the export of items with potential use in WMD or missile programs. In particular, EPCI is being applied to items with potential use in chemical or biological weapons or unmanned delivery systems for WMD.

Chemical Weapons Convention: Chemical weapons continue to pose a serious threat to the security of the United States and our allies. On April 29, 1997, the Convention on the Prohibition of the

Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (known as the Chemical Weapons Convention or CWC) entered into force, with 87 of the CWC's 165 signatories as original States Parties—including the United States, which ratified the Convention on April 25, 1997. As of the end of this reporting period, 147 countries have become States Parties.

The implementing body for the CWC—the Organization for the Prohibition of Chemical Weapons (OPCW)—carries out the verification provisions of the CWC, and its Technical Secretariat presently has a staff of approximately 500 international civil servants, including about 200 inspectors trained and equipped to inspect military and industrial facilities throughout the world. To date, the OPCW has conducted over 1,200 routine inspections at over 460 sites in some 50 countries. No challenge inspections have yet taken place. The OPCW maintains an inspector presence at operational chemical weapon destruction facilities. United States facilities have hosted approximately one-third of OPCW inspections and two-thirds of total inspection days, due to the significant level of chemical weapon destruction activity in the United States.

The United States is determined to seek full implementation of and compliance with the CWC. This includes submission of accurate and complete declarations for all States Parties and compliance with the CWC's inspection provisions. The United States pursues compliance with the Convention through several means, including bilateral consultations and site visits under Article IX, with the State Parties that it believes may not be meeting their commitments. In addition, the United States is actively taking steps to strengthen the OPCW's ability to implement effectively the CWC, including making a $2 million voluntary contribution to the OPCW as a follow-up to the recent much needed change in OPCW leadership.

We are continuing our work to ensure that countries that refuse to become party to the CWC are increasingly isolated politically. Under the CWC, such countries are denied access to certain key chemicals from States Parties. The relevant treaty provisions are specifically designed to penalize countries that refuse to become party to the CWC.

Biological Weapons Convention: The United States agreed in 1994 to participate in an Ad Hoc Group to negotiate a Protocol to the 1972 Biological Weapons Convention (BWC) that would "strengthen the effectiveness and improve the implementation of the Convention." On July 25, 2001, after a thorough United States Government Policy review, the United States announced that the draft Protocol test was unacceptable and unfixable. At the opening of the Fifth BWC Review Conference in November 2001, the Administration offered a number of alternative approaches that would be effective in combating the threat of biological weapons proliferation and in strengthening the BWC. The resumed RevCon in November 2002 adopted a work program for the period until the next RevCon in 2006. Under that work program, the BWC States Parties will discuss, and promote effective action on, several of the practical measures proposed by the President.

Australia Group: The United States continues to be a leading participant in the 33-member Australia Group (AG) chemical and

biological weapons nonproliferation regime. At the most recent annual AG Plenary Session June 3–6 in Paris, the Group significantly expanded its export controls and strengthened its ability to counter both nation-state and terrorist chemical and biological weapons efforts. Responding to the terrorist events of September 11, 2001, AG participants adopted common export control guidelines that include chemical and biological terrorism as an explicit focus of the regime.

Participants also adopted the U.S.-proposed gameplan on regional nonproliferation and the Group agreed to require its members to have "catch-all" controls, the first multilateral nonproliferation regime to do so. The AG control lists were amended to include technology for the development and production of listed biological agents and equipment, and to add eight new biological toxins. To better combat biological weapons proliferation, the Group reduced the control level for listed fermenters from 100 to 20 liters and to require licenses for exports of biological agents to all countries, including other AG members (except for intra-EU trade).

Participants also continued to agree that full adherence to the CWC and BWC by all governments will be a key to achieving a permanent global ban on chemical and biological weapons, and that the states adhering to these Conventions must take steps to ensure that their national activities support these goals. The Group reaffirmed its commitment to continue its active outreach program of briefings for non-AG countries, and to promote regional consultations on export controls and nonproliferation to further raise awareness and understanding of national policies in these areas. No new members were admitted to the AG during the reporting period.

Sanctions/Interdictions: During the reporting period, we continued to examine closely intelligence and other information concerning trade in material and technology, related to chemical and biological weapons. In July 2002, pursuant to the Iran-Iraq Arms Nonproliferation Act of 1992 and the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, the United States impose mandatory sanctions on eight Chinese companies, one Chinese citizen, and one Indian citizen for knowingly and materially contributing to a foreign chemical weapons program. Also, penalties were imposed in June 2001, January 2002, and May 2002, pursuant to the Iran Nonproliferation Act of 2000, on a total of nine Chinese and two Armenian entities for their involvement in the transfer of AG-controlled items to Iran. The United States continues to cooperate with its AG partners and other countries in stopping shipments of chemical and biological weapons proliferation concern.

Country Issues: Iran continues to seek precursors and production technology to create a more advanced and self-sufficient CW infrastructure, and continues actively to pursue BW capabilities. Iraq is reconstituting its chemical and biological weapons programs. Syria and Libya continue to make improvements to their chemical weapons infrastructure and both are pursuing offensive biological weapons research and development. North Korea has a dedicated, national-level effort to achieve a biological weapons capability and has developed and produced, and may have weaponized, biological weapons agents. North Korea is also assessed as having a long-

standing offensive chemical weapons program, which includes the ability to produce bulk quantities of nerve, blister, blood, and choking agents. Sudan has received foreign assistance in the development of a chemical weapons program and may be actively pursuing a more advanced capability.

MISSILES FOR DELIVERY OF WMD

Export Controls: The United States rigorously controls exports that could contribute to unmanned delivery systems for WMD, and monitors closely activities of potential missile proliferation concern.

Missile Technology Control Regime: The Missile Technology Control Regime (MTCR) Partners continued to share information about proliferation problems with each other and with other potential supplies, consumer, and transshipment states. Partners also emphasized the need for implementing effective export control systems. This cooperation has resulted in the interdiction of missile-related materials intended for use in missile programs of concern.

The MTCR held its annual Plenary in Warsaw, September 24–27, 2002. At the Plenary, the MTCR Partners shared information about activities and programs of missile proliferation concern and reiterated that the proliferation of WMD and their means of delivery poses a serious threat to international and regional peace and security. In addition, the Plenary re-emphasized the important role played by export controls, the need for their strict implementation and enforcement, and the importance of strengthening existing controls to respond to technological developments and the evolving security environment. To this end, the Plenary agreed to a number of substantive changes to the Regime's Annex (control list). The Partners also agreed to a range of continuing contacts with non-members concerning MTCR goals and activities. The Partners also adopted a Joint Action that stressed the need for further efforts to limit the risk of controlled items and their technologies falling into the hands of terrorist groups and individuals.

International Code of Conduct Against Ballistic Missile Proliferation: The United States was one of 99 counties that participated in a meeting hosted by Spain June 17–18, 2002 on the draft International Code of Conduct Against Ballistic Missile Proliferation (ICOC). The meeting resulted in a productive exchange of views, which helped the multilateralization of the ICOC. In September 2002, The Netherlands, on behalf of the EU, distributed the final ICOC text to all counties and invited them to subscribe to the ICOC. The ICOC entered into effect at a "Launching Conference" in The Hague on November 25–26, 2002.

The ICOC is intended to create a widely-subscribed international predisposition against ballistic missile proliferation. It consists of a broad set of principles, general commitments, and modest confidence building measures. It is intended to be a voluntary political commitment, not a treaty, and will be open for subscription by all counties. The ICOC will supplement, not supplant, the important work of the MTCR.

Sanctions: In May 2002, the United Stated imposed penalties on two Armenian, two Moldovan, and seven Chinese entities pursuant to the Iran Nonproliferation Act of 2000, for the transfer of MTCR-

controlled items to Iran. In August 2002, the United States imposed Category II missile sanctions on a North Korean entity.

South Asia Missile: India has an extensive, largely indigenous ballistic missile development and production program. Nevertheless, India's ballistic missile programs have benefited from the acquisition of foreign equipment and technology, which it continues to seek.

Pakistan has an active ballistic missile program and, during the last several years, has received considerable assistance from Chinese and North Korean entities in these efforts. Continued development of nuclear-capable ballistic missiles by both India and Pakistan raises the prospect that more sophisticated and possibly destabilizing capabilities will be fielded in the coming years. Such a race constitutes a threat to regional and international security. After three years of not conducting a flight test of a ballistic missile, Pakistan conducted five ballistic missile tests during the reporting period.

DPRK Missile: Although the DPRK has maintained its September 1999, self-imposed, long-range missile flight test moratorium, it has, during the last several years, been extremely active in the research, development, testing, deployment, and export of ballistic missiles and related materials, equipment, and technology. The DPRK also is working to increase the capability of its missile systems. During a September 2002 meeting with Japanese Prime Minister Junichiro Koizumi, DPRK President Kim Jong-il stated that North Korea would maintain its missile flight test moratorium until after 2003. We are concerned, however, that North Korea may try to circumvent its promise by cooperating in testing and development with foreign missile programs.

During his October 2002 visit to North Korea, Assistant Secretary of State James Kelly expressed serious U.S. concerns about the negative impact of the DPRK's missile- and WMD-related activities on regional and global peace and stability, for the North's relations with the United States and its neighbors, and for its own future.

Iran Missile: Iran has substantial missile inventories and an indigenous ballistic missile production capability. In recent years, North Korean, Russian, and Chinese entities have continued to supply Iran with a wide variety of missile-related goods, technology, and expertise. In response to Iranian efforts to acquire sensitive items from Russian entities for use in Iran's missile and nuclear development programs, the United States has pursued a high-level dialogue with Russia aimed at finding ways to cut off the flow of sensitive goods and expertise to Iran's ballistic missile development and nuclear weapons programs. Russia's Government has created institutional foundations to implement its nonproliferation commitments and passed laws to punish wrongdoers. It also has passed new export control legislation and adopted implementing regulations to tighten government control over sensitive technologies and continued a dialogue with the United States aimed at strengthening export control practices at Russian aerospace firms. However, while there has been some movement, we remain concerned that Russian entities continue to supply missile technology and equipment to Iran.

Other Countries: Other countries, in addition to the above, are pursuing missile programs. Iraq has exceeded the U.N. range limit of 150 km with its existing ballistic missiles and is developing specialized facilities, which would suggest that it intends to develop a medium-range ballistic missile capability, largely through foreign assistance in rebuilding its missile production capability. Iraq is also developing its unmanned aerial vehicle capability as a delivery system for biological and, less likely, chemical agents. Libya's limited success with its indigenous missile production effort may renew its focus on purchasing a complete ballistic missile system. Syria continues to acquire missile-related equipment and materials and has received considerable foreign production assistance.

VALUE OF NONPROLIFERATION EXPORT CONTROLS

U.S. national export controls—both those implemented pursuant to multilateral nonproliferation regimes and those implemented unilaterally—play an important part in impeding the proliferation of WMD and missiles.

As noted in this report, however, export controls are one of a number of tools the United States uses to achieve its nonproliferation objectives. Global nonproliferation treaties and norms, multilateral nonproliferation regimes, interdiction of shipments of proliferation concern, sanctions, export control assistance, redirection and elimination efforts, and robust U.S. military, intelligence, and diplomatic capabilities all work in conjunction with export controls as part of our overall nonproliferation strategy.

Export controls are a critical part of nonproliferation because every emerging WMD and missile program seeks equipment and technology from other countries. Proliferators look to other sources because needed items are unavailable within their country, because indigenously produced items are of substandard quality or insufficient quantity, and/or because imported items can be obtained more quickly and cheaply than domestically-produced ones.

It is important to note that proliferators seek for their WMD and missile programs both items on multilateral lists (like gyroscopes controlled on the MTCR Annex and nerve gas precursors controlled on the AG list) and unlisted items (like lower-level machine tools and very basic chemicals). In addition, many of the items of interest to proliferators are inherently dual-use. For example, key precursors and technologies used in the production of fertilizers or pesticides also can be used to make missile propellant and chemical weapons; vaccine production technology can be used to produce biological weapons.

The most obvious value of export controls is in impeding or denying proliferators and terrorists access to key pieces of equipment or technology for use in their WMD and/or missile programs. In large part, U.S. national export controls—and similar controls of our partners in the AG, MTCR, and NSG—strive to deny proliferators and terrorists access to the largest sources of the best equipment and technology. If denied, proliferators might then turn to non-regime suppliers to seek less capable items. Moreover, in many instances, U.S. and regime controls and associated efforts have forced proliferators to engage in complex clandestine procurements, taking time and money away from their WMD and missile programs.

United States national export controls and those of our regime partners also have played an important role in increasing over time the critical mass of countries applying nonproliferation export controls. For example: the seven-member MTCR of 1987 has grown to 33 member countries; the NSG adopted full-scope safeguards as a condition of supply and extended new controls to nuclear-related dual-use items; several non-member countries have committed unilaterally to apply export controls consistent with one or more of the regimes; and most of the members of the nonproliferation regimes have applied national "catch-all" controls similar to those under the U.S. EPCI. (Export controls normally are tied to a specific list of items, such as the MTCR Annex. "Catch-all" controls provide a legal basis to control exports of items not on a list, when it is believed that those items could be destined for WMD and/or missile programs.)

The United States maintains a global program to assist some 30 countries to strengthen their export control systems. Assistance is focused on helping weapons-source countries and countries along potential smuggling routes to develop effective export control regimes, including effective capabilities to control illicit weapons trafficking across their borders; to establish the necessary legal and regulatory basis for effective export controls; to improve licensing procedures and practices; to coordinate, train, and equip export enforcement agencies, including customs agents and border security and enforcement authorities; to develop and install automated information systems for licensing and enforcement; and to foster effective interaction between government and industry on export controls.

This program has placed 21 advisors in countries around the world to coordinate export control/border security activities. The program continues to register successes: new cooperative relationships have been established with key transshipment and potential supplier states; a number of countries have adopted, or are adopting, export and transshipment control laws and regulations, including "catch-all" controls and controls on arms brokering, largely based on U.S. advice; the program has contributed to a significant strengthening of border security capabilities in former Soviet states, notable Central Asia, the Caucasus, and in Eastern Europe; and various countries' enforcement agencies have used U.S. equipment and training to interdict the movement of arms, related items, and radioactive materials across the borders.

Finally, export controls play an important role in enabling and enhancing legitimate trade. They provide a means to permit duel-use exports to proceed under circumstances where, without export control scrutiny, the only prudent course would be to prohibit them. They help build confidence between countries applying similar controls that, in turn, results in increased trade. Each of the WMD and missile nonproliferation regimes, for example, has a "no undercut" policy committing each member not to make an export that another has denied for nonproliferation reasons and notified to the rest—unless it first consults with the original denying country. Not only does this policy make it more difficult for proliferators to get items from regime members, it also establishes a "level playing field" for exporters.

THREAT REDUCTION AND NONPROLIFERATION ASSISTANCE TO THE FORMER SOVIET STATES

The President has made clear repeatedly that his Administration is committed to strong, effective cooperation with Russia and the other former Soviet states to reduce WMD and prevent their proliferation. To ensure that the promise of these programs is fully realized, the Administration undertook in 2001 a detailed review of U.S. nonproliferation and threat reduction assistance to the Russian Federation. The review was completed in December 2001. It found that most U.S. programs in this area work well, are focused on priority tasks, and are well managed. The review further identified some programs for expansion and others for adjustment. In keeping with the President's commitment, and the results of the review, the President's FY 2003 budget included historically high requests to the Congress for nonproliferation and threat reduction assistance to the former Soviet states.

On June 27, 2002, the President and his G–8 colleagues launched a new major effort to expand threat reduction and nonproliferation assistance. Under the G–8 Global Partnership Against the Spread of Weapons and Material of Mass Destruction, the G–8 will commit up to $20 billion for this purpose over the next ten years. The United States intends to provide half of that total. The initial focus will be on projects in Russia, but the initiative is also open to other states, including other former Soviet states.

EXPENDITURES

Pursuant to Section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), there was no specific expenditures incurred, which are directly attributable to the exercise of authorities conferred by the declaration of the national emergency in Executive Order 12938, as amended, during the reporting period from May 15, 2002 through November 12, 2002.

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