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# EMERGENCY REGARDING PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

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## COMMUNICATION

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)



JULY 7, 2003.—Referred to the Committee on International Relations and ordered to be printed

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THE WHITE HOUSE,
*Washington, July 3, 2003.*

Hon. J. DENNIS HASTERT,
*Speaker of the House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: Consistent with 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.

Sincerely,

GEORGE W. BUSH.

## 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 November 13, 2002 through May 14, 2003.

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 90-day period period 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 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 such hands, these weapons pose direct threats to the United States and its forces, friends, and allies.

This Administration has given a high priority to dealing with the threat of WMD and missile proliferation. The September 11, 2001 terrorist attacks in New York and Washington, D.C. and subsequent anthrax crimes reinforce the importance of efforts to prevent the proliferation of these weapons, especially to terrorists and countries that harbor terrorists. Likewise, arrests in Europe during the second half of 2002 lend support to the validity of our concerns that terrorists are actively plotting to conduct chemical and biological attacks.

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 Prolifera-

tion 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 and Disarmament Act, 22 U.S.C. 2593a; (d) the most recent report on Nuclear Nonproliferation Policy in South Asia, provided pursuant to Public Law 102–391, Section 585; (e) the most recent Report on Regional Nonproliferation in South Asia, submitted pursuant to Section 620F(c) of Foreign Assistance Act; (f) 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; (g) the most recent semiannual report on proliferation-related transfers to Iran, submitted pursuant to the Iran Nonproliferation Act of 2000; and (h) the most recent report on Libya sanctions, provided pursuant to Iran and Libya Sanctions Act of 1996, section 5(b).

## NUCLEAR WEAPONS

*Treaty on the Nonproliferation of Nuclear Weapons:* The Treaty on the Non-Proliferation of Nuclear Weapons (NPT) is the cornerstone of the global effort to halt nuclear proliferation. The second meeting of the Preparatory Committee (PrepCom) for the 2005 NPT Review Conference took place in Geneva from April 28 to May 9, 2003. NPT Parties used the session to address the Treaty's central tenets: nonproliferation; disarmament; and peaceful nuclear cooperation. PrepCom II transmitted to PrepCom III (to be held in 2004) a factual summary of the session produced by the Chair.

The primary U.S. objective leading up to and at PrepCom II was to make clear to responsible NPT Parties the threat to the Treaty and global security posed by those NPT Parties in noncompliance with, or threatening noncompliance with, their nonproliferation obligations. Close consultations with the PrepCom Chair began in June 2002 and continued throughout PrepCom II. The United States consulted actively with a wide range of NPT Parties in Washington, New York, Geneva, and capitals in an effort to make clear the depth of U.S. concern about the threat posed by noncompliance. The United States was generally successful in achieving its PrepCom II objective. More than 40 Parties addressed the compliance issue in their PrepCom statements, including specific references to DPRK and Iranian actions, and the Chair devoted a significant portion of his Factual Summary to the compliance issue.

The United States will continue to highlight the importance of compliance as the Parties turn their attention to PrepCom III, which will convene on April 26, 2004 in New York. PrepCom III, unlike PrepCom I (2002) and II, is charged with attempting to make consensus recommendations to the 2005 Review Conference

on ways to strengthen the NPT's implementation and achieve its universality.

The United States will continue to meet all of its obligations under the NPT and notes that the conclusion of the Moscow Treaty for the reduction of strategic nuclear warheads demonstrates that the United States continues to meet its obligations under the nuclear disarmament-related provisions of Article VI of the NPT.

North Korea's violation of the NPT and disabling of IAEA seals and cameras at Yongbyon, its expulsion of IAEA inspectors, its January 2003 notice of its intention to withdrawal from the NPT, and its restarting of the 5 MW (e) Yongbyon reactor—subsequent to its admission in October 2002 of a covert uranium enrichment program—further underscore the nuclear proliferation challenges faced by the United States and the international community.

Iranian compliance with the NPT also remains of primary concern. We assess Iran's nuclear program is aimed at developing the capability to produce fissile material for use in nuclear weapons. Recently disclosed nuclear-related facilities under construction at Natanz and Arak, for instance, would help Iran produce weapons-usable fissile material. The magnitude and completeness of Iran's nuclear fuel cycle programs are so disproportionate to its stated intention of developing a strictly civilian nuclear energy program that we are persuaded they are designed to support a clandestine nuclear weapons program. The IAEA is undertaking a rigorous examination of Iran's nuclear program and is expected to report its findings soon to the IAEA Board of Governors.

The United States is increasingly concerned over statements by Libyan leaders about Arab nations' right to pursue nuclear weapons as well as Libya's development of its nuclear infrastructure.

*International Atomic Energy Agency:* The International Atomic Energy Agency (IAEA), inter alia, verifies the compliance of non-nuclear weapons states with their NPT safeguards obligations. During this reporting period, the United States continued to provide significant technical and financial resources to support IAEA safeguards activities.

The IAEA safeguards system helps deter or detect diversion of nuclear materials. However, it has become increasingly clear that the IAEA safeguards agreements have limitations that impede its ability to detect undeclared activities. The discovery after the Persian Gulf War of Iraq's extensive covert nuclear activities 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 measures, the IAEA's capability to detect and assess a state's undeclared nuclear activity was substantially enhanced. As of June 2003, this Protocol had been signed by 73 states and has entered into force for 35 countries.

During the reporting period, the IAEA proposed a biennium budget for CY2004–2005 that includes a real increase for safe-

guards funding of around $21.5 million. The United States has engaged in substantial diplomatic activity over the past 6 months in support of this increase. The IAEA and other international organizations have been subject to stringent budget levels by the United States and other major donor nations for around 15 years. However, the United States has decided that the IAEA is justified in seeking this increase, in view of a substantial growth in its safeguards responsibilities over that period. The IAEA Director-General has warned that the IAEA cannot continue to provide credible safeguards under such financial limitations. The IAEA plays an essential role in preventing the spread of nuclear weapons and deserves these additional funds in order to fulfill its verification responsibilities under the NPT.

*The Zangger Committee:* The purpose of the 35-nation NPT Exporters (Zangger) Committee (ZC) is to harmonize implementation of the NPT's requirement to apply IAEA safeguards to exports to non-nuclear-weapon states of (a) source or special fissionable material, and (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).

All of the NPT nuclear weapons states, including China, are members of the ZC. However, China is the only member of the ZC that is not also a member of the Nuclear Suppliers Group (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.

The ZC, because of its link to the NPT, is in a unique position to engage NPT-party non-member critics of the nonproliferation regimes, such as Egypt, Indonesia, Malaysia, and Mexico, and to present supplier government views to NPT meetings. It will continue to take the lead on possible Trigger List additions. The ZC is not currently able to control radioactive sources because most of these have no significance for nuclear weapons or fuel cycle activities. The ZC will be considering whether and how to expand its mandates for possible coverage. The ZC took the lead in developing supplier consensus to add enrichment, reprocessing, heavy water production equipment, and most recently, plutonium separation equipment and technology to the Trigger List.

At its April 10, 2003 meeting, the ZC members welcomed the chair's announcement of inauguration of the ZC website hosted by the Austrian Government. The ZC also discussed elements that might be incorporated in the updated understandings (guidelines), including physical protection and the IAEA Additional Protocol. 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 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. The NSG Guidelines, first published in 1978, require for exports of nuclear materials and equipment: (1) formal recipient government assurances confirming IAEA safeguards and no nuclear explosive use; (2) adequate physical protection; and (3) particular caution in the transfer of sensitive facilities, technology, and weapons-usable materials.

In 1992, the NSG added FSS as a condition of nuclear supply to non-clear weapons states, and established dual-use guidelines and a control list. In 1995, the NSG added controls on nuclear technology for items of the Trigger List (items which trigger the requirement for IAEA safeguards).

NSG Chairmanship rotates annually. The Republic of Korea is the current chair and Sweden will assume the chairmanship in May 2004. Japan's Mission in Vienna serves as the NSG Point of Contract. The NSG Consultative Group (GC), currently chaired by the United States, meets at least twice a year under the mandate of the plenary.

The NSG is considering how to make more transparent a "Common Understanding" on the safety and grandfathering exceptions to the full-scope safeguards supply policy, in order to prevent new problems like those created by the Russian nuclear supply to India. It is also considering making the Additional Protocol a condition of supply, incorporating catch-all control provisions in the dual-use guidelines, and expanded information sharing on denials of Trigger List items, as is currently done for nuclear-related dual-use exports.

*South Asia Nuclear:* During the reporting period, India and Pakistan have continued to pursue their respective nuclear weapons programs and to increase their stockpiles of fissile material. Both maintain active ballistic missile programs and have flight-tested short- and medium-range ballistic missiles. The United States continued to raise its nuclear proliferation-related concerns with Indian and Pakistani officials, calling on them to: maintain their nuclear testing moratoria, not assemble nuclear weapons, bring an early end to the production of fissile material, limit flight-tests of ballistic missiles, resume their bilateral dialogue, and bring their export controls in line with international standards to prevent transfers of sensitive goods or technologies to other countries.

We have made progress with India and Pakistan to bring their export control system and practices in line with international standards. Assistant Secretary of State John Wolf held nonproliferation and security talks in Washington with delegations from both countries in February 2003, during which Indian and Pakistani officials signaled their willingness to cooperate on export control reform. Indian officials outlined a number of steps they were planning to take to close loopholes in their export control laws and regulations and agreed to dates for a series of cooperative activities under the State Department's Export Control and Related Border Security Assistance (EXBS) program. Later in February, the EXBS program hosted a delegation of senior Pakistani export control officials to discuss best practices and chart a program of

training activities to assist Pakistan to strengthen its export control system. We are now working with Pakistan on the content and timing of a number of activities in the areas of licensing and enforcement.

*North Korea Nuclear:* 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 covert uranium enrichment program for nuclear weapons. The DPRK acknowledged it has a covert uranium enrichment program and has since lifted the freeze on its plutonium production facilities at Yongbyon. North Korea's 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 its nuclear weapons program, including its uranium enrichment program. completely, verifiably and irreversibly, and has been consulting closely with Congress, friends, and allies on next steps to address this grave violation of North Korea's international commitments and threat to the future of the NPT.

Under the 1994 Agreed Framework, North Korea was to receive 500,000 tons of Heavy Fuel Oil (HFO) annually, purchased through the Korean Peninsula Energy Development Organization (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 pursuit of a nuclear weapons program. Congress provided up to $5 million for KEDO's administrative account in FY03, should the President decide it is vital to the national security interests of the United Sates to so contribute. No part of this funding would go to fund heavy fuel oil shipments or light water reactor construction. The Administration is seeking no funds for HFO for 2004.

During the reporting period, the DPRK announced it was lifting the freeze on its plutonium production facilities. It cut IAEA seals and disabled IAEA monitoring cameras at the "frozen" facilities, and expelled the IAEA inspectors at Yongbyon. Subsequently, on January 10, 2003, the DPRK announced it was withdrawing from the NPT, and in February, the DPRK restarted its 5Mwe reactor at Yongbyon.

In late April, North Korea engaged in multilateral talks with China and the United States in Beijing. At this meeting, North Korea declared that it has nearly completed the successful reprocessing of the 8,000 spent fuel rods at the Yongbyon facility. It also indicated that it possessed nuclear weapons, and threatened to demonstrate or transfer nuclear weapons or fissile material beyond North Korea's borders. During these talks, the United States made clear our objective remains the complete, verifiable, and irreversible elimination of the North Korean nuclear weapons program. The United States also stressed that the multilateral talks must be expanded to include other concerned parties, above all the Republic of Korea and Japan. We are consulting with friends and allies on next steps.

*Iran Nuclear:* Despite its status as an NPT Party, Iran is aggressively pursuing a costly effort to acquire sensitive nuclear capabilities, including uranium enrichment, that only make sense as part of a surreptitious nuclear weapons program, not for energy-related purposes. Such an indigenous fuel cycle is not necessary to meet Iran's declared desire to have a civil nuclear power program to generate electricity, given Russia's offer to provide fresh fuel for the lifetime of the Bushehr reactor, Iran's only nuclear power reactor foreseeable for the next decade. Iran's claims to need nuclear power to meet its energy needs are also highly suspect, in light of Iran's abundant oil and natural gas resources.

Until recently, virtually all of Iran's sensitive nuclear activities were secret, and many remain so. Iran's recent disclosures were made only because it had no choice, but were also accompanied by a specious cover story.

Iran is trying to legitimize as "peaceful and transparent" its ambitious pursuit of nuclear fuel cycle capabilities that would give it the capability to produce fissile material for nuclear weapons. This includes uranium mining and extraction, uranium conversion and enrichment, reactor fuel fabrication, heavy water production, and "management" of spent fuel—a euphemism for reprocessing spent fuel to recover plutonium.

Iran's claim of transparency in its nuclear program is false. Until February 2003, Iran was the only state with an IAEA safeguards agreement that had not accepted the IAEA Board's 1992 call to declare new nuclear facilities prior to construction, i.e., "early declaration." Iran's stalling allowed it to build a well-advanced, sophisticated nuclear infrastructure in secret, including the huge uranium enrichment facility at Natanz, without IAEA knowledge or input on effective safeguards. Iran only acknowledged the uranium enrichment plant under construction at Natanz, and the heavy water production plant under construction at Arak, after their existence was made public by an Iranian opposition group.

In August 2002, that group publicly revealed the existence of what was confirmed to be a gas centrifuge enrichment plant under construction at Natanz, and a heavy water production plant under construction at Arak. In February 2003, IAEA Director General ElBaradei and his senior safeguards staff visited Iran to examine these sites and undertake a more rigorous examination of Iran's nuclear program. The IAEA is continuing monthly inspections of Iran's program. As the IAEA has characterized, Iran's nuclear program appears to be significantly more advanced than the IAEA had previously known, while the Iranian regime has recently publicly acknowledged an ambitious (and extremely costly) pursuit of indigenous fuel-cycle capabilities, including enrichment and reprocessing.

It is highly unlikely that Iran could have achieved such an apparent state of technical progress in its gas centrifuge enrichment program without having conducted experiments with nuclear material, an activity which Iranian officials deny. Such experiments would be a serious violation of Iran's IAEA safeguards obligations. The Director General is expected to provide a detailed report of inspections in Iran to the next IAEA Board of Governors meeting in June 2003.

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 China and all major Western suppliers have agreed not to provide sensitive 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 addition, we are concerned that some interactions between Chinese and Iranian entities may run counter to Beijing's bilateral commitments to the United States.

The United States is engaged intensively, at senior levels, with the Russian Government regarding Russia's nuclear cooperation with Iran. Russia has been assisting Iran in nuclear areas since at least 1995, including with the construction of the Bushehr-1 light water reactor. The United States has urged Russia to suspend all nuclear cooperation with Iran until concerns about the Iranian nuclear program are fully resolved.

The United States believes that Iran must immediately halt its pursuit of a full nuclear fuel cycle capability and verifiably abandon its weapons ambitions.

*Iraq Nuclear:* 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 was designed to test the Iraqi regime's commitment to abandon WMD and illegal missile efforts.

In the wake of Iraq's refusal to voluntarily disarm, Operation IRAQI FREEDOM began on March 19, 2003 with the primary goal of disarming Iraq. Key objectives of military action are to locate, defeat, secure, disable, and dispose of Iraqi WMD, infrastructure, and scientific and engineering expertise; redirect select dual-use facilities and key personnel; and prevent reconstitution and proliferation. Exploitation/elimination of WMD will take place concurrent with military operations when possible. However, this is a time-consuming task; the Iraqi regime may well have hidden WMD to thwart coalition forces' efforts to capture WMD. We remain concerned about WMD "leakage" and are focused on ensuring that no WMD or WMD-related materiel leaves Iraq.

*Libya Nuclear:* An NPT party with full-scope IAEA safeguards, Libya retains its long-standing nuclear weapons ambitions and continues to develop its nuclear infrastructure. There is increasing concern over statements by Libyan leader Muamar Qhadafi that Arab countries have the right to pursue nuclear weapons as a deterrent against other weapons in the region. Our concerns are sharpened when considered in the context of Libya's development of its nuclear infrastructure and an ongoing pattern of suspicious

Libyan procurement attempts of nuclear related material and technology. The suspension of U.N. sanctions in 1999 has provided Libya the means to enhance that infrastructure.

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 system 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, 151 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 1,400 routine inspections at over 580 sites in 51 countries. No challenge inspections have yet taken place. The OPCW maintains an inspector presence at operational chemical weapon destruction facilities. Due to the significant level of chemical weapon destruction activity in the United States, U.S. facilities have hosted approximately one-third of OPCW inspections and two-thirds of total inspection days.

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, consistent with Article IX of the CWC, with several States 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 a $2 million voluntary contribution to the OPCW made in FY 2002 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, States Parties are prohibited from transferring certain key chemicals to non-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 approach embodied in the draft Protocol is not capable of strengthening the BWC. "The traditional approach [facility investigations and declarations] that has worked well for many other types of weapons is not a workable structure for biological weapons." On November 1, 2001, the Administration offered a number of alternative measures that would contribute to 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 United States. The United States is actively engaged in preparing for the first annual meeting of States Parties in August 2003, preceded by a meeting of experts. The items to be addressed are national implementation measures and biosecurity, and we are hopeful that the August 2003 meeting will result in encouraging national efforts that could contribute to reducing the BW threat.

In addition, the United States is pursuing measures to combat the biological weapons threat on multiple fronts in a number of forums such as NATO's Defense Group on Proliferation, the Global Health Security Action Group, and the World Health Organization.

*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 June 3–6, 2002 AG Plenary Session, 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 that members are to have "catch-all" and intangible technology 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 decided 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 compliance with the CWC and BWC by all countries will be a key to achieving a permanent global ban on chemical and biological weapons, and that the States Parties 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 ex-

port controls and nonproliferation to further raise awareness and understanding of national policies in these areas.

During the February 2003 Australia Group intersessional meeting in Paris, AG partners agreed to discuss the following topics at the June 2003 plenary: strengthened outreach to non-AG countries; adding additional chemicals and biological agents to the AG control list; new formats for information sharing on a variety of export and other control topics; and overall enhancements to the AG partnership.

*Sanctions/Interdiction:* 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 February, 2003, pursuant to the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, the United States imposed sanctions on NEC Engineers Private, Ltd. (an Indian company originally based in India but also operating in the Middle East and Eurasia) ahd Hans Raj Shiv (an Indian citizen previously residing in India and believed to be in the Middle East) for knowingly and materially contributing to Iraq's CBW program. Shiv was previously sanctioned in July 2002 pursuant to the Iran-Iraq Arms Nonproliferation Act of 1992.

In March 2003, the United States imposed sanctions on the Indian entity Protech Consultants Private Ltd, as well as the Jordanian national Mohammed Al-Khatib, under the Iran-Iraq Arms Nonproliferation Act of 1992 for their knowing and material contribution to Iraq's CBW program.

The United States continues to cooperate with its AG partners and other like-minded countries in stopping shipments and exchanges of chemical and biological weapons proliferation concern.

*CBW 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. Evidence suggests that 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 warfare capability and has developed and produced, and may have weaponized, biological warfare 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. The United States believes that Cuba has at least a limited, developmental, offensive biological warfare research and development effort; Cuba has provided dual-use biotechnology to rogue states. Operation IRAQI FREEDOM is underway to disarm Iraq's CBW program.

### WMD-CAPABLE MISSILES

*Export Controls:* The United States rigorously controls exports that could contribute to unmanned delivery systems (ballistic mis-

siles, cruise missiles, and unmanned aerial vehicles) for WMD, and monitors closely activities of potential missile proliferation concern.

*Missile Technology Control Regime:* During the reporting period, the 33 Missile Technology Control Regime (MTCR) Partners continued to share information about proliferation problems with each other and with other potential supplier, consumer, and transshipment states. The Partners also emphasized the need for implementing effective export control systems. In January 2003, the Partners amended the MTCR Guidelines to make preventing terrorists from acquiring WMD delivery systems a specific focus of the Regime.

In April 2003, the MTCR held an intersessional Technical Experts Meeting (TEM) in Vienna to discuss new proposals and additions to strengthen control of MTCR Annex items. In addition, the MTCR held an intersessional meeting in Paris in May 2003 to discuss regional nonproliferation outreach to nonmembers, transparency, and other issues of priority nonproliferation concern. These discussions will result in decisions at the September 2003 Plenary, which will be held in Buenos Aires.

*International Code of Conduct Against Ballistic Missile Proliferation:* The United States is one of 102 subscribing states to the International Code of Conduct Against Ballistic Missile Proliferation (ICOC—or "The Hague Code of Conduct"), which was launched on November 25–26, 2002. The ICOC creates 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 a voluntary political commitment, not a treaty, and is open for subscription by all countries. The ICOC supplements, but does not supplant, the important work of the MTCR.

Such a large and diverse group of subscribing countries (including countries in Africa, the EU, South America, Central Asia, and the Pacific) shows that there is widespread support for the ICOC and objectives of (1) stemming the proliferation of WMD capable delivery systems; and (2) encouraging countries to voluntarily cooperate to address missile proliferation. It should be noted, however, that several countries with programs of missile proliferation concern have not subscribed to the ICOC.

The ICOC Launching Conference was extremely successful and was followed by the first meeting of Subscribing States on November 26, 2002. The Subscribers agreed to hold an ad-hoc technical intersessional meeting (scheduled for June 23, 2003) to further elaborate issues relating to the Code's implementation, including pre-launch notifications and Subscribing States' annual declarations on space and ballistic missile policies.

*Sanctions:* On March 24, 2003, the United States imposed Category I missile sanctions on the North Korean entity Changgwang Sinyong Corporation for the knowing transfer of Missile Technology Control Regime (MTCR) Category I items from North Korea that "substantially contributed" to an MTCR Category I program in Pakistan. Also on March 24, the United States imposed penalties on the Pakistani governmental entity Khan Research Laboratories (KRL), under Executive Order 12938, as amended, for making a material contribution to a WMD-capable missile program by receiv-

ing transfers from Changgwang. The sanctions on the North Korean and Pakistani entities were for a specific missile-related transfer. These sanctions do not pertain to any other activity, including nuclear-related ones.

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

Pakistan also 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 an arms race constitutes a threat to regional and international security. Both India and Pakistan conducted missile tests during this reporting period. The United States continued to urge India and Pakistan to exercise restraint in their missile programs.

*DPRK Missile:* Although the DPRK has maintained its September 1999, voluntary moratorium on flight tests of long-range ballistic missiles, it has been extremely active in the research, development, testing, deployment, and export of missiles and related materials, equipment, and technologies. 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 long-range ballistic missile flight-test moratorium until after 2003. However, the DPRK has since announced it may reconsider its offer to extend the moratorium.

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. Making progress on these issues remains a high priority for this Administration.

*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. The United States continues to pursue a high-level dialogue with Russia aimed at finding ways to cut off the continuing flow of sensitive goods and expertise to Iran's ballistic missile development and nuclear weapons programs. The Russian 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. The United States has also im-

posed sanctions against Chinese and North Korean entities under both the AECA and the Iran Nonproliferation Act for their assistance to the Iranian missile program.

*Other Countries:* A number of other countries also are pursuing missile programs. Iraq exceeded the U.N. range limit of 150 km with its existing ballistic missiles and sought to develop specialized facilities, which would suggest that it intended to develop a medium-range ballistic missile capability, largely through foreign assistance in rebuilding its missile production capability. Iraq also developed its unmanned aerial vehicle capability as a delivery system for biological and, perhaps, chemical agents. Libya is continuing to seek technology and assistance for its missile program from foreign sources. Syria continues to acquire missile-related equipment and materials and has received considerable foreign production assistance.

## VALUE OF NONPROLIFERATION EXPORT CONTROLS

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

Export controls are a critical part of nonproliferation because every emerging WMD and missile program seeks materials, equipment, and technologies from other countries. Proliferators look to other sources because needed items are unavailable within their countries, 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. Increased focus has been put on encouraging transit/transshipment countries to adopt new and/or strengthened export controls consistent with international nonproliferation norms as a means to halt transfers of WMD-useful materials, equipment, and technologies. Export controls have their limitations, however; export controls have a limited ability to address the growing problem of secondary proliferation (e.g., transfers between countries such as the DPRK and Iran).

It is important to note that proliferators seek for their WMD and missile programs both items on multilateral lists (such as gyroscopes controlled on the MTCR Annex and nerve gas precursors controlled on the AG list) and unlisted items (such as 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 and technology for use in their WMD and/or missile programs. In large part, U.S. national export controls—and similar controls of our AG, MTCR, and NSG partners—are aimed at denying proliferators and terrorists access to the largest sources of the best material, 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 Export Control and Related Border Security Assistance (EXBS) program to assist over 30 countries to prevent transfers of sensitive goods to end-users of proliferation concern, and strengthen their export control systems. Assistance is focused on helping weapons-source countries and transit/transshipment countries along high-risk smuggling routes to develop effective export and related border controls. The EXBS program is funded and managed by the State Department's Bureau of Nonproliferation and draws on expertise from a number of U.S. agencies and the private sector. The program assists governments in strengthening their export controls by improving their legal and regulatory frameworks, licensing processes, border control and investigative capabilities, outreach to industry, and interagency coordination.

This program has placed 21 program advisors in 14 countries to assist the coordination of export control/border security activities. The program continues to register successes: new cooperative relationships have been established with key transit/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 EXBS program has contributed to a significant increase of border security capabilities in former Soviet states, and Central and Southern 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 dual-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. Programs geared towards the former Soviet states include the Cooperative Threat Reduction Program (CTR), Department of Energy nuclear nonproliferation programs, and State Department programs, including the Science and Technology Centers in Russia and Ukraine. These programs seek to reduce weapons and materials of mass destruction, secure those which remains, and redirect former Soviet WMD scientists towards peaceful projects and away from rogue states and terrorists.

Under the relevant legislation, CTR assistance may be provided to the independent states of the former Soviet Union only if the President (whose authority has been delegated to the Secretary of State) certifies to Congress, for each fiscal year, that the proposed recipient country is committed to certain courses of action. Beginning in FY 2003, Congress gave the President the authority to waive CTR (as well as FREEDOM Support Act Title V) certification requirements for any recipient state if he certifies to Congress that the waiver is important to the national security interests of the United States and submits a report.

The Secretary of State did not certify Russia for CTR and FREEDOM Support Act (FSA) Title V assistance for FY 2002 and FY 2003 because of concerns regarding Russia's commitment to complying with all relevant arms control agreements and foregoing any military modernization program that exceeds legitimate defense requirements. In January 2003, the President exercised his authority to waive the CTR and FSA Title V certification requirements for Russia for FY 2003, and new obligations for Russia under CTR and FSA Title V have resumed.

The Secretary subsequently certified the following countries for CTR and FSA Title V assistance for FY 2003: Armenia, Azerbaijan, Georgia, Kyrgyzstan, Tajikistan, and Uzbekistan on February 19, 2003; Ukraine and Kazakhstan on March 19, 2003; ;and Moldova on April 5, 2003.

EXPENDITURES

Pursuant to Section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), there were 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 November 13, 2002 through May 14, 2003.

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