

NUCLEAR TERRORISM CONVENTIONS IMPLEMENTATION
AND SAFETY OF MARITIME NAVIGATION ACT OF 2012

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JUNE 26, 2012.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
—————

Mr. SMITH of Texas, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 5889]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 5889) to amend title 18, United States Code, to provide for protection of maritime navigation and prevention of nuclear terrorism, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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Purpose and Summary

This bill implements certain provisions of four multilateral counterterrorism treaties. These treaties are important tools in the fight against terrorism and each one builds on an existing treaty to which the United States is a party. This implementing legisla-

tion enhances U.S. national security by modernizing and strengthening the international counterterrorism and counter proliferation legal framework and improve multilateral efforts to combat terrorism and nuclear proliferation. This legislation and the underlying treaties also complement important United States priorities such as the Global Initiative to Combat Nuclear Terrorism, the Washington Nuclear Security Summit, and the Proliferation Security Initiative.

Background and Need for the Legislation

Based on the hearing held by the House Committee on the Judiciary, Subcommittee on Crime, Terrorism, and Homeland Security and on briefings provided by the Departments of Justice and State, and through similar hearings held in the Senate, the Committee believes that adoption of this legislation to implement the subject treaties will reinforce the United States' leading role in promoting these and other counterterrorism treaties and will prompt other Parties to join. Adoption of this legislation will implement the provisions of the following treaties and is a necessary step toward ratification of the treaties. The treaties are:

- (a) the 2005 Protocol to the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation ("2005 Protocol") and 2005 Protocol to the 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf ("2005 Platforms Protocol"), signed on behalf of the United States of America on February 17, 2006;
- (b) the International Convention for the Suppression of Acts of Nuclear Terrorism ("Nuclear Terrorism Convention" or "NTC"), signed on behalf of the United States of America on September 14, 2005; and
- (c) certain provisions of an amendment to the Convention on the Physical Protection of Nuclear Material ("CPPNM"), adopted by acclamation at a diplomatic conference of States Parties to the CPPNM on July 25, 2005.

Hearings

The Subcommittee on Crime, Terrorism, and Homeland Security held a hearing on the legislative implementation necessary under these nuclear and maritime terrorism agreements on October 5, 2011. The hearing consisted of one panel with the following witnesses: (1) Brad Weigman, Deputy Assistant Attorney General, National Security Division, United States Department of Justice, and (2) Thomas M. Countryman, Assistant Secretary, Bureau of International Security and Nonproliferation, United States Department of State.

Committee Consideration

On June 6, 2012, the Committee on the Judiciary met in open session and ordered the bill H.R. 5889 to be reported favorably, by voice vote, a quorum being present.

Committee Votes

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that no rollcall votes occurred during the Committee's consideration of H.R. 5889.

Committee Oversight Findings

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

New Budget Authority and Tax Expenditures

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

Congressional Budget Office Cost Estimate

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 5889, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 22, 2012.

Hon. LAMAR SMITH, CHAIRMAN,
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5889, the "Nuclear Terrorism Conventions Implementation and Safety of Maritime Navigation Act of 2012."

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226-2860.

Sincerely,

DOUGLAS W. ELMENDORF,
DIRECTOR.

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 5889—Nuclear Terrorism Conventions Implementation and Safety of Maritime Navigation Act of 2012.

As ordered reported by the House Committee on the Judiciary
on June 6, 2012.

CBO estimates that implementing H.R. 5889 would have no significant cost to the Federal Government. Enacting the bill could affect direct spending and revenues; therefore, pay-as-you-go procedures apply. However, CBO estimates that any effects would be insignificant for each year.

H.R. 5889 would establish new Federal crimes relating to acts of violence committed on or against ships or maritime fixed platforms and criminal acts involving the use of nuclear materials. As a result, the government might be able to pursue cases that it otherwise would not be able to prosecute. CBO expects that H.R. 5889 would apply to a relatively small number of additional offenders, however, so any increase in costs for law enforcement, court proceedings, or prison operations would not be significant. Any such costs would be subject to the availability of appropriated funds.

Because those prosecuted and convicted under H.R. 5889 would be subject to criminal fines, the Federal Government might collect additional fines if the legislation is enacted. Criminal fines are recorded as revenues, deposited in the Crime Victims Fund, and later spent. CBO expects that any additional revenues and direct spending would not be significant because of the small number of additional cases likely to be affected.

CBO has not reviewed H.R. 5889 for intergovernmental or private-sector mandates. Section 4 of the Unfunded Mandates Reform Act excludes from the application of that act any legislative provisions that are necessary for the ratification or implementation of international treaty obligations. CBO has determined that the bill falls within that exclusion.

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

Performance Goals and Objectives

The Committee states that, pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 5889 promotes national security by prohibiting under specified circumstances: the possession and use of radioactive material and radiological dispersal devices; damage to nuclear facilities, nuclear smuggling; the use or targeting of a ship or a fixed maritime platform in a terrorist activity; and the maritime transport of biological, chemical, or nuclear weapons or their components, delivery means, or materials. The bill also forbids, among other things, the maritime transport of terrorist fugitives.

Advisory on Earmarks

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 5889 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clauses 9(e), 9(f), or 9(g) of Rule XXI.

Section-by-Section Analysis

Section 1. Short Title

This Act may be cited as the “Nuclear Terrorism Conventions Implementation and Safety of Maritime Navigation Act of 2012.”

Title 1—Safety of Maritime Navigation

This title implements the maritime treaties.

Section 101. Amendment to section 2280 of title 18, United States Code

This amends 18 U.S.C. § 2280, which implemented the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation. The amendments update the jurisdictional grounds and correct a cross-reference to the Norris-LaGuardia Act. These amendments include the existing definitions in section 2280 and add definitions for some of the terms used by the 2005 Protocol; the statutory definitions apply to sections 2280, 2280a, 2281, and 2281a.

In (1)(A)(i) jurisdiction is expanded over prohibited activity against U.S. ships to include not just those ships flying the flag of the United States, but also “a vessel of the United States or a vessel subject to the jurisdiction of the United States.”

In (b)(1)(A)(ii) jurisdiction is clarified by adding “including the territorial seas” to the current statute, which refers simply to “in the United States.”

In (b)(1)(A)(iii) jurisdiction is expanded over prohibited activities against maritime navigation by including activity committed by a United States corporation or legal entity, in addition to the current language giving jurisdiction over a national of the United States or by a stateless person whose habitual residence is the United States.

In subsection (c) a correction is made to an error in the cross-reference to the Norris-LaGuardia Act by substituting “section 13 (c) for the current 2 (c)” of that Act.

The new subsection (d) identifies nine applicable treaties and contains the existing definitions for Section 2280 and provides definitions for some new terms utilized by the 2005 Protocol. Terms defined include biological weapon, chemical weapon, explosive material, and infrastructure facility, among others. It also updates the definitional sections by adding a definition of “international organization,” to be consistent with 18 U.S.C. § 831. This subsection also adopts the definition of “military forces of a state” used in the 2005 Protocol.

Subsection (e) creates an exception for the activities of armed forces during an armed conflict, as those terms are understood under the law of war and for activities undertaken by military forces of a state in the exercise of their official duties. Consistent with the understanding included in the instrument of ratification for the 2005 Protocols, the exemption provided by this bill to subsection(e)(2) of Section 2280, includes civilians who direct or organize the official activities of military forces of a State.

Subsection (f) updates the grounds permitting the master of a ship to deliver an offender to another state, under certain conditions, to include the new offenses added by these amendments. It provides authority for the master of a covered ship flying the flag of the United States, who has reasonable grounds to believe a person on board has committed an offense under 18 U.S.C. 2280 or 2280a, to deliver that person to the authorities of a country that is a party to the Convention for the Suppression of Unlawful Acts

Against the Safety of Maritime Navigation. This change is required under the 2005 Protocol, Article 8, as amended.

Subsection (g) establishes a civil forfeiture provision against any real or personal property used or intended for use in committing violations. This would include gross proceeds of such violations, and real or personal property traceable to such property or proceeds. These forfeitures are governed by the provisions of chapter 46 of Title 18, but may also be performed by agents or officers designated by the Secretary of Homeland Security, the Attorney General, or the Secretary of Defense.

Section 102. New section 2280a of title 18, United States Code

This section creates a new section 2280a to criminalize the new offenses in the 2005 Protocol, which forbids enumerated maritime terrorism acts and the maritime transport of biological, chemical, or nuclear weapons (“BCN weapons”) or certain of their components, delivery means, or materials, under specified circumstances. The 2005 Protocol also forbids the maritime transport of terrorist fugitives.

Subsection (a)(1) references the exceptions for armed forces and military actions found in subsection (c), in accordance with the 2005 Protocol, Article 3.

New subsection (a)(1)(A) implements Article 4 of the 2005 Protocol as it adds Article 3*bis*, paragraphs 1(a)(i),(ii), and (iii) to the 1988 Convention. Under these provisions, it is an offense to, unlawfully and with the intent to compel a person, an international organization, or a state to do or refrain from doing an act, (i) use against or on, or discharge from, a ship any explosive or radioactive material, or BCN weapon, in a manner that causes or is likely to cause death or serious injury or damage; (ii) discharge from a ship oil, liquefied natural gas, or another hazardous or noxious substance, in a manner that causes or is likely to cause death or serious injury or damage; or (iii) otherwise use a ship in a manner that causes death or serious injury or damage.

Subsection (a)(1)(B) implements Article 4(5) of the 2005 Protocol as it adds to the 1988 Convention Article 3*bis*, paragraphs 1(b) and 2. Subsection (a)(1)(B)(i) forbids the transport of explosive or radioactive material intended for a terrorist act. Subsection (a)(1)(B)(ii) forbids the transport of BCN weapons. Subsection (a)(1)(B)(iii) forbids the transport of source or special fissionable material or equipment or material especially designed or prepared for the processing, use, or production of special fissionable material where intended for use in a nuclear explosive activity or in any other nuclear activity not under safeguards pursuant to an International Atomic Energy Agency comprehensive safeguards agreement (except where not contrary to obligations of parties to the Treaty on the Non-Proliferation of Nuclear Weapons (“NPT”). For example, transport would be permitted if no safeguards are required, as in the case of a Nuclear Weapon State Party recipient, or if an NPT State Party sends such materials or equipment to a country that is not an NPT State Party for use in an activity under “facility-specific” International Atomic Energy Agency (“IAEA”) safeguards. At the same time, transport, even by an NPT State Party to a country that is not an NPT State Party, would be forbidden if the resulting transfer violated the NPT party’s obligations under the NPT. For

example, the obligations of NPT States Parties under the NPT include, among other things, the obligation not to provide source or special fissionable material or equipment or material especially designed or prepared for the processing, use, or production of special fissionable material to any non-nuclear weapon state for peaceful purposes, unless the source or special fissionable material is subject to IAEA safeguards.

Subsections (a)(1)(B)(iv)-(vi) forbid transport of certain items, including dual use items, that will significantly contribute to and are intended for the design or manufacture of a BCN weapon or its means of delivery. New statutory subparagraph (B) reflects Article 4(5) of the 2005 Protocol, which adds Article 3*bis*, paragraphs 1(b) and 2 to the 1988 Convention. However, the offenses and savings clause of the Convention are reorganized in the statute to provide a clearer exposition of the exceptions applicable to each category of forbidden conduct. The offenses prohibited are consistent with the obligations under the NPT and complementary with the obligations set out in U.N. Security Council Resolution 1540 regarding prohibitions against the transport of BCN weapons.

Subsection (a)(1)(C) implements Article 4(6) of the 2005 Protocol to prohibit the transportation of a terrorist fugitive (*i.e.*, perpetrators of an act prohibited under the amended SUA or one of nine other UN terrorism conventions), with the intent to help the fugitive evade prosecution.

Subsections (a)(1)(D) and (E) add provisions regarding conspiracy, attempt, and injury or death in connection with one of the listed offenses. The amendments reflect the amendments in Article 4(7) of the 2005 Protocol, which are also partially implemented by 18 U.S.C. §§ 2 and 371.

Subsection (a)(2) criminalizing threats is updated to implement the 2005 Protocol's requirement to criminalize threats to commit the terrorism-related offenses described in subparagraph (A) (*see* 2005 Protocol, Article 4(5)).

Subsection (b) specifies the circumstances in which the United States can exercise jurisdiction over the offenses. These grounds include the grounds required by the 1988 Convention and 2005 Protocol as well as the optional grounds listed in the 1988 Convention. (*See* 2005 Protocol, Article 6; 1988 Convention, Article 6.)

Subsection (c) of inserts exceptions specifying that the statute does not apply to armed forces during an armed conflict or to the official exercise of military duties, as specified in Article 3 of the 2005 Protocol.

Subsection (d) establishes a civil forfeiture provision against any real or personal property used or intended for use in committing violations under section 2280. This would include gross proceeds of such violations, and real or personal property traceable to such property or proceeds. These forfeitures are governed by the provisions of chapter 46 of Title 18, but may also be performed by agents or officers designated by the Secretary of homeland Security, the Attorney General, or the Secretary of Defense.

The penalties for violations of 18 U.S.C. 2280a are a fine, imprisonment for not more than 20 years, or both. If the death of any person results from prohibited conduct under this new section, the punishment is imprisonment for any term of years or life (this does not have the death penalty provision contained in Section 2280).

Section 103. Amendment to section 2281 of title 18, United States Code

This section corrects an error in subsection (c) in the cross-reference to the Norris-LaGuardia Act by substituting “section 13 (c) for the current 2 (c)” of that Act.

Strikes the definitions found in subsection (d), of “national of the United States,” “territorial sea of the United States,” and “United States.”

This section adds a new subsection (e) that creates an exception to the provisions of the section for the activities of armed forces during an armed conflict as those terms are understood under the law of war. This exception is identical to that found in other sections of this Act and is specified in Article 3 of the 2005 Protocol (cross-referenced in Article 2 of the 2005 Platforms Protocol).

Section 104. New section 2281a of title 18, United States Code

This new section of title 18 criminalizes the new offenses specified in the 2005 Platforms Protocol.

New subsection (a)(1)(A) makes it an offense to, unlawfully and with the intent to compel a person, an international organization, or a state to do or refrain from doing an act, (i) use against or discharge from a fixed platform, any explosive or radioactive material, or biological, chemical, or nuclear weapon, in a manner that causes or is likely to cause death or serious injury or damage; or (ii) discharge from a fixed platform oil, liquefied natural gas, or another hazardous or noxious substance, in a manner that causes or is likely to cause death or serious injury or damage.

Subsection (a)(1)(B) extends the penalties for injuring or killing a person in connection with the commission of an enumerated offense to the new crimes in subparagraph (A), as required by the 2005 Platforms Protocol, Article 4(2).

Subsections (a)(1)(C) and (a)(2) implement the 2005 Platforms Protocol’s application of attempt, conspiracy, and threat provisions to the new terrorist crimes. (See 2005 Platforms Protocol, Articles 4(1) and 4(2)).

Subsection (b) implements the jurisdictional requirements of the Platforms Protocols as well as those that are listed as optional. (See 2005 Platforms Protocol, Article 5; 1988 Protocol, Article 3).

Subsection (c) inserts exceptions specifying that the statute does not apply to armed forces during an armed conflict or to the official exercise of military duties, as required by the 2005 Platforms Protocol (see 2005 Platforms Protocol, Article 2, cross-referencing the 2005 Protocol, Article 3).

Subsection (d) adds definitions of “continental shelf” and “fixed platform” that are not included in 18 U.S.C. § 2280.

The penalties for violations of 18 U.S.C. 2281a are a fine, imprisonment for not more than 20 years, or both. If the death of any person results from prohibited conduct under this new section, the punishment is imprisonment for any term of years or life (this does not have the death penalty provision contained in Section 2281).

Section 105. Ancillary Measure

Amends the meaning of the term “Federal Crime of Terrorism” to include violations of the new section 2280a and 2281a, created by sections 102 and 104 of this Act.

Title II—Prevention of nuclear terrorism

This title implements certain provisions of the nuclear terrorism convention and the amendment to the convention for the physical protection of nuclear material.

Section 201. New Section 2332i of Title 18 of the U.S. Code

This section of the bill creates a new section 2332(i).

Section 2332i(a) implements the provisions in Articles 2 and 5(a) of the NTC by creating two new criminal offenses regarding the possession and use of radioactive material, along with criminalizing, as required by the two treaties, attempts, threats, and conspiracies to commit the offenses. The provisions on damaging or interfering with a nuclear facility would also implement the CPPNM amendment's provision on nuclear facility sabotage.

Section 2332i(a)(1)(A) would make it a criminal offense to knowingly possess radioactive material or make or possess a nuclear explosive, radiation exposure device or radiological dispersal device, with the intent to cause death or serious bodily injury or substantial damage to property or the environment. Section 2332i(a)(1)(B) would make it a criminal offense to knowingly use radioactive material or a nuclear explosive or radiological dispersal device or radiation exposure device, or damage or interfere with a nuclear facility in a manner that risks or causes contamination or exposure to radioactive material or radiation, with the intent to cause death or serious bodily injury or substantial damage to property or the environment, or with the knowledge that such effect is likely. With respect to this offense, the acts may also constitute offenses if they are done with the intent to compel a person, international organization, or state to do or refrain from doing an act. These offenses implement the NTC Article 2(1) and the acts of sabotage described in the amendment to Article 7 of the CPPNM. The CPPNM amendment also includes a specific exception for such sabotage acts "undertaken in conformity with the national law of the State Party in the territory of which the nuclear facility is situated." Such an exception would protect, for example, first responders but is not necessary in domestic law because the statute only criminalizes unlawful activity. Moreover, the government would not prosecute first responders for acts within their official duties in responding to an incident.

Section 2332i(a)(2) would criminalize a threat to commit either offense in subsection (a)(1) and a demand for possession of or access to radioactive material, a nuclear explosive, or a radiological dispersal device or a radiation exposure device or a nuclear facility by means of a threat or use of force. This language implements Article 2(2) of the NTC, with slightly different but equivalent language for purposes of U.S. law. It also implements the threat provision of the CPPNM amendment as applied to nuclear facility sabotage. Threats to commit the other acts identified in the CPPNM amendment are criminalized at 18 U.S.C. § 831.

Section 2332i(a)(3) would criminalize attempts to commit the offenses in subsections (a)(1) and (a)(2). This language implements Article 2(3) and 2(4) of the NTC, as well as the amendment to Article 7 of the CPPNM as it pertains to sabotage attempts and participation. Conspiracy under subsection (a)(3) would not require proof of

an overt act. Attempts to threaten are not included in the NTC and therefore not included in the legislation. The NTC and CPPNM amendment do include the offense of “participation” in an attempt, but the legislation does not criminalize conspiracy to attempt since the crime does not have an analogue in U.S. law. Statutory provisions for conspiracy and attempt, as well as aiding and abetting liability through 18 U.S.C. § 2, are sufficient to implement the conventions’ provisions on attempt and participation.

Section 2332i(b) would create jurisdiction for the offenses in subsection (a). Article 9 of the NTC and Article 8 of the CPPNM require jurisdiction over offenses occurring on the territory of a signatory, on board vessels flying the flag of a signatory, and on aircraft registered in a signatory, and over offenses committed by nationals of a signatory. Subsections (b)(1), (b)(2)(A), and (b)(2)(B) implement these jurisdictional grounds in the new legislation and include the special aircraft jurisdiction of the United States. The statute uses the term “vessel of the United States” and “vessel subject to the jurisdiction of the United States” (both terms defined in 46 U.S.C. § 70502) to define jurisdiction over vessels. The treaties also require that a State Party establish jurisdiction over the offenses in cases where the alleged offender is present in its territory and it does not extradite that person to a State Party that has implemented procedures in compliance with the treaties. Accordingly, the statute includes in subsection (b)(4) jurisdiction if an offender is found in the United States. The NTC also permits jurisdiction in a number of other cases, which this legislation adopts. There is jurisdiction over offenses committed against a U.S. national abroad; by a stateless person whose habitual residence is in the United States; against state or government facilities abroad; or in an attempt to compel the United States to do or abstain from doing any act.

Section 2332i(c) would impose penalties for the commission of the offenses in subsection (a), in accordance with the obligation under Article 5(b) of the NTC and Article 7 of the CPPNM. The penalties are a fine of not more than \$2,000,000 and imprisonment for any term of years or life.

Section 2332i(d) addresses nonapplicability. Article 4(2) of the NTC and the amendment to Article 2 of the CPPNM specify that activities of armed forces are not covered by the conventions. The statutory exemption in section 2332i(d) implements this exception. The statute draws on the definition of “military forces of a state” used in the Nuclear Terrorism Convention, Paragraph 6 of Article I. Consistent with the understandings included in the instruments of ratification for both the NTC and CPNNM (Treaty Doc. 110–4 at IX and Treaty Doc. 110–6 at 7) and with the Administration’s interpretation of 18 U.S.C. 2332f, the exemption in section 2332i(d) is understood to include civilians who direct or organize the official activities of military forces of a State.

Section 2332i(e) defines relevant terms in the section, most importantly, “radioactive material,” “nuclear material,” “nuclear facility,” and “device.” The definitions of “radioactive material” and “device” are adopted directly from the NTC. The definition of “nuclear material” is adopted from existing section 831(f) in order to provide consistency among the statutes. It is slightly broader than the definition in the CPPNM or the NTC because it covers all plutonium,

rather than “plutonium, except that with isotopic concentration exceeding 80 percent in plutonium-238.” When amending section 831 in 1996, Congress expanded the definition in that statute beyond the CPPNM definition in order to address other hazardous materials that might be used in radioactive dispersal devices or in other terrorist activity.

The definition of “nuclear facility” is adopted partly from the NTC, in subsections (e)(6)(A) and (e)(6)(B), and partly, in subsection (e)(6)(C), from the definition of the same term in the CPPNM amendment because the statute covers offenses from both conventions involving nuclear facilities. A nuclear facility would include a nuclear reactor or plant used for nuclear material, as well as a conveyance for radioactive material. It would also include facilities that use nuclear material, provided that damage to or interference with the facility could lead to a significant release of radiation or radioactive material.

Section 202. Amendment to Section 831 of Title 18 of the U.S. Code

Section 831 is amended to implement certain provisions of the CPPNM amendment. New subsection (a)(3) would criminalize the additional acts of nuclear smuggling required to be prohibited under the CPPNM amendment as with the other offenses in section 831, since 1996, slightly more material would be covered in the statute than in the treaty: section 831 includes “nuclear byproduct material” where the CPPNM does not, and section 831, as explained above, has a somewhat broader definition of nuclear material than the CPPNM. Congress’s findings in 1996 supported this expansion.

Renumbered subsection (a)(8) retains the previous attempt offenses and adds an attempt offense with respect to the new smuggling offense (new subsection (a)(3)), consistent with the CPPNM amendment. Renumbered subsection (a)(9) would include conspiracies to commit the substantive offenses criminalized in the statute, as required by the CPPNM and its amendment.

The jurisdictional provisions in subsection (c) would be expanded to include some of the grounds listed in the new section 2332i to promote consistency in the implementation of these two conventions and the full assertion of permissible authority over potential nuclear material offenses. The amendment would add, consistent with section 2332i, jurisdiction over offenses committed by stateless persons with their habitual residence in the United States. It would also extend jurisdiction over offenses against state or government facilities abroad and offenses committed on board an aircraft or vessel registered in the United States. Simpler language borrowed from the new section 2332i would replace current subsection (c)(5) to achieve the same effect of jurisdiction over terrorist acts done to influence the United States government or that constitute a threat directed at the United States.

Similarly to section 2332i(d), and elsewhere in this Act, a new subsection (e) in section 831 would provide exemptions to jurisdiction for activities of armed forces, implementing the amendment to Article 2 of the CPPNM. The statute also draws on the definition of “military forces of a state” used in the Nuclear Terrorism Convention, Paragraph 6 of Article I. Consistent with the understandings included in the instruments of ratification for both the

NTC and CPNNM (Treaty Doc. 110–4 at IX and Treaty Doc. 110–6 at 7) and with the interpretation of 18 U.S.C. 2332f, the exemption in section 831(e) is understood to include civilians who direct or organize the official activities of military forces of a State.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 18, UNITED STATES CODE

* * * * *

PART I—CRIMES

* * * * *

CHAPTER 39—EXPLOSIVES AND OTHER DANGEROUS ARTICLES

* * * * *

§ 831. Prohibited transactions involving nuclear materials

(a) Whoever, if one of the circumstances described in subsection (c) of this section occurs—

(1) * * *

* * * * *

(3) *without lawful authority, intentionally carries, sends or moves nuclear material into or out of a country;*

[(3)] (4) knowingly—

(A) * * *

* * * * *

[(4)] (5) intentionally intimidates any person and thereby obtains nuclear material or nuclear byproduct material belonging to another;

[(5)] (6) with intent to compel any person, international organization, or governmental entity to do or refrain from doing any act, knowingly threatens to engage in conduct described in paragraph (2)(A) or (3) of this subsection;

[(6)] (7) knowingly threatens to use nuclear material or nuclear byproduct material to cause death or serious bodily injury to any person or substantial damage to property or to the environment under circumstances in which the threat may reasonably be understood as an expression of serious purposes;

[(7)] (8) attempts to commit [an offense under paragraph (1), (2), (3), or (4)] *any act prohibited under paragraphs (1) through (5) of this subsection; or*

[(8)] (9) is a party to a conspiracy of two or more persons to commit [an offense under paragraph (1), (2), (3), or (4)] *any act prohibited under paragraphs (1) through (7) of this sub-*

section, if any of the parties intentionally engages in any conduct in furtherance of such offense;
shall be punished as provided in subsection (b) of this section.

(b) The punishment for an offense under—

(1) paragraphs (1) through ~~[(7)]~~ (8) of subsection (a) of this section is—

(A) * * *

* * * * *

(2) paragraph ~~[(8)]~~ (9) of subsection (a) of this section is—

(A) * * *

* * * * *

(c) The circumstances referred to in subsection (a) of this section are that—

(1) * * *

(2) an offender or a victim is—

(A) a national of the United States or a stateless person whose habitual residence is in the United States; or

* * * * *

(4) the conduct required for the offense occurs with respect to the carriage of a consignment of nuclear material or nuclear byproduct material for peaceful purposes by any means of transportation intended to go beyond the territory of the state where the shipment originates beginning with the departure from a facility of the shipper in that state and ending with the arrival at a facility of the receiver within the state of ultimate destination and either of such states is the United States; ~~[or]~~

~~[(5) either—~~

~~[(A) the governmental entity under subsection (a)(5) is the United States; or~~

~~[(B) the threat under subsection (a)(6) is directed at the United States.]~~

~~(5) the offense is committed on board a vessel of the United States or a vessel subject to the jurisdiction of the United States (as defined in section 70502 of title 46) or on board an aircraft that is registered under United States law, at the time the offense is committed;~~

~~(6) the offense is committed outside the United States and against any state or government facility of the United States; or~~

~~(7) the offense is committed in an attempt to compel the United States to do or abstain from doing any act, or constitutes a threat directed at the United States.~~

(d) ~~NONAPPLICABILITY.—This section does not apply to—~~

~~(1) the activities of armed forces during an armed conflict, as those terms are understood under the law of war, which are governed by that law; or~~

~~(2) activities undertaken by military forces of a state in the exercise of their official duties.~~

~~[(d)]~~ (e) The Attorney General may request assistance from the Secretary of Defense under chapter 18 of title 10 in the enforcement of this section and the Secretary of Defense may provide such assistance in accordance with chapter 18 of title 10, except that the Secretary of Defense may provide such assistance through any Department of Defense personnel.

[(e)] (f)(1) * * *
* * * * *

[(f)] (g) As used in this section—
(1) * * *
* * * * *

(6) the term “national of the United States” has the same meaning as in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); [and]

(7) the term “United States corporation or other legal entity” means any corporation or other entity organized under the laws of the United States or any State, Commonwealth, territory, possession, or district of the United States[.];

(8) the term “armed conflict” has the meaning given that term in section 2332f(e)(11) of this title;

(9) the term “military forces of a state” means the armed forces of a country that are organized, trained and equipped under its internal law for the primary purpose of national defense or security and persons acting in support of those armed forces who are under their formal command, control and responsibility;

(10) the term “state” has the same meaning as that term has under international law, and includes all political subdivisions thereof;

(11) the term “state or government facility” has the meaning given that term in 2332f(e)(3) of this title; and

(12) the term “vessel of the United States” has the meaning given that term in section 70502 of title 46.

* * * * *

CHAPTER 111—SHIPPING

* * * * *

§ 2280. Violence against maritime navigation

(a) * * *

(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a)—

(1) in the case of a covered ship, if—

(A) such activity is committed—

(i) against or on board [a ship flying the flag of the United States] a vessel of the United States or a vessel subject to the jurisdiction of the United States (as defined in section 70502 of title 46) at the time the prohibited activity is committed;

(ii) in the United States, including the territorial seas; or

(iii) by a national of the United States, by a United States corporation or legal entity, or by a stateless person whose habitual residence is in the United States;

* * * * *

(c) BAR TO PROSECUTION.—It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a

labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term “labor dispute” has the meaning set forth in [section 2(c)] *section 13(c)* of the Norris-LaGuardia Act, as amended (29 U.S.C. 113(c)).

[(d) DELIVERY OF SUSPECTED OFFENDER.—The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that there is on board that ship any person who has committed an offense under Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation may deliver such person to the authorities of a State Party to that Convention. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the United States of the alleged offense and await instructions from the Attorney General as to what action to take. When delivering the person to a country which is a State Party to the Convention, the master shall, whenever practicable, and if possible before entering the territorial sea of such country, notify the authorities of such country of the master’s intention to deliver such person and the reasons therefor. If the master delivers such person, the master shall furnish to the authorities of such country the evidence in the master’s possession that pertains to the alleged offense.

[(e) DEFINITIONS.—In this section—

["covered ship" means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country’s territorial sea with an adjacent country.

["national of the United States" has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

["territorial sea of the United States" means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law.

["ship" means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles or any other floating craft, but does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up.

["United States", when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands and all territories and possessions of the United States.]

(d) DEFINITIONS.—As used in this section, section 2280a, section 2281, and section 2281a, the term—

(1) “applicable treaty” means—

(A) the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970;

(B) the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971;

(C) *the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973;*

(D) *International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979;*

(E) *the Convention on the Physical Protection of Nuclear Material, done at Vienna on 26 October 1979;*

(F) *the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988;*

(G) *the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988;*

(H) *International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997; and*

(I) *International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999;*

(2) *“armed conflict” does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature;*

(3) *“biological weapon” means—*

(A) *microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective, or other peaceful purposes; or*

(B) *weapons, equipment, or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict;*

(4) *“chemical weapon” means, together or separately—*

(A) *toxic chemicals and their precursors, except where intended for—*

(i) *industrial, agricultural, research, medical, pharmaceutical, or other peaceful purposes;*

(ii) *protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons;*

(iii) *military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare; or*

(iv) *law enforcement including domestic riot control purposes,*

as long as the types and quantities are consistent with such purposes;

(B) *munitions and devices, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph (A), which would be released as a result of the employment of such munitions and devices; and*

- (C) any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in subparagraph (B);
- (5) “covered ship” means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country’s territorial sea with an adjacent country;
- (6) “explosive material” has the meaning given the term in section 841(c) and includes explosive as defined in section 844(j) of this title;
- (7) “infrastructure facility” has the meaning given the term in section 2332f(e)(5) of this title;
- (8) “international organization” has the meaning given the term in section 831(f)(3) of this title;
- (9) “military forces of a state” means the armed forces of a state which are organized, trained, and equipped under its internal law for the primary purpose of national defense or security, and persons acting in support of those armed forces who are under their formal command, control, and responsibility;
- (10) “national of the United States” has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));
- (11) “Non-Proliferation Treaty” means the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow on 1 July 1968;
- (12) “Non-Proliferation Treaty State Party” means any State Party to the Non-Proliferation Treaty, to include Taiwan, which shall be considered to have the obligations under the Non-Proliferation Treaty of a party to that treaty other than a Nuclear Weapon State Party to the Non-Proliferation Treaty;
- (13) “Nuclear Weapon State Party to the Non-Proliferation Treaty” means a State Party to the Non-Proliferation Treaty that is a nuclear-weapon State, as that term is defined in Article IX(3) of the Non-Proliferation Treaty;
- (14) “place of public use” has the meaning given the term in section 2332f(e)(6) of this title;
- (15) “precursor” has the meaning given the term in section 229F(6)(A) of this title;
- (16) “public transport system” has the meaning given the term in section 2332f(e)(6) of this title;
- (17) “serious injury or damage” means—
- (A) serious bodily injury,
 - (B) extensive destruction of a place of public use, State or government facility, infrastructure facility, or public transportation system, resulting in major economic loss, or
 - (C) substantial damage to the environment, including air, soil, water, fauna, or flora;
- (18) “ship” means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles, or any other floating craft, but does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up;

(19) “source material” has the meaning given that term in the International Atomic Energy Agency Statute, done at New York on 26 October 1956;

(20) “special fissionable material” has the meaning given that term in the International Atomic Energy Agency Statute, done at New York on 26 October 1956;

(21) “territorial sea of the United States” means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law;

(22) “toxic chemical” has the meaning given the term in section 229F(8)(A) of this title;

(23) “transport” means to initiate, arrange or exercise effective control, including decisionmaking authority, over the movement of a person or item; and

(24) “United States”, when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and all territories and possessions of the United States.

(e) EXCEPTIONS.—This section shall not apply to—

(1) the activities of armed forces during an armed conflict, as those terms are understood under the law of war, which are governed by that law; or

(2) activities undertaken by military forces of a state in the exercise of their official duties.

(f) DELIVERY OF SUSPECTED OFFENDER.—The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that there is on board that ship any person who has committed an offense under section 2280 or section 2280a may deliver such person to the authorities of a country that is a party to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the United States of the alleged offense and await instructions from the Attorney General as to what action to take. When delivering the person to a country which is a state party to the Convention, the master shall, whenever practicable, and if possible before entering the territorial sea of such country, notify the authorities of such country of the master’s intention to deliver such person and the reasons therefor. If the master delivers such person, the master shall furnish to the authorities of such country the evidence in the master’s possession that pertains to the alleged offense.

(g)(1) CIVIL FORFEITURE.—Any real or personal property used or intended to be used to commit or to facilitate the commission of a violation of this section, the gross proceeds of such violation, and any real or personal property traceable to such property or proceeds, shall be subject to forfeiture.

(2) APPLICABLE PROCEDURES.—Seizures and forfeitures under this section shall be governed by the provisions of chapter 46 of title 18, United States Code, relating to civil forfeitures, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in section 981(d) shall be performed by such officers, agents, and other persons as may be designated for that

purpose by the Secretary of Homeland Security, the Attorney General, or the Secretary of Defense.

§ 2280a. Violence against maritime navigation and maritime transport involving weapons of mass destruction

(a) OFFENSES.—

(1) IN GENERAL.—Subject to the exceptions in subsection (c), a person who unlawfully and intentionally—

(A) when the purpose of the act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act—

(i) uses against or on a ship or discharges from a ship any explosive or radioactive material, biological, chemical, or nuclear weapon or other nuclear explosive device in a manner that causes or is likely to cause death to any person or serious injury or damage;

(ii) discharges from a ship oil, liquefied natural gas, or another hazardous or noxious substance that is not covered by clause (i), in such quantity or concentration that causes or is likely to cause death to any person or serious injury or damage; or

(iii) uses a ship in a manner that causes death to any person or serious injury or damage;

(B) transports on board a ship—

(i) any explosive or radioactive material, knowing that it is intended to be used to cause, or in a threat to cause, death to any person or serious injury or damage for the purpose of intimidating a population, or compelling a government or an international organization to do or to abstain from doing any act;

(ii) any biological, chemical, or nuclear weapon or other nuclear explosive device, knowing it to be a biological, chemical, or nuclear weapon or other nuclear explosive device;

(iii) any source material, special fissionable material, or equipment or material especially designed or prepared for the processing, use, or production of special fissionable material, knowing that it is intended to be used in a nuclear explosive activity or in any other nuclear activity not under safeguards pursuant to an International Atomic Energy Agency comprehensive safeguards agreement, except where—

(I) such item is transported to or from the territory of, or otherwise under the control of, a Non-Proliferation Treaty State Party; and

(II) the resulting transfer or receipt (including internal to a country) is not contrary to the obligations under the Non-Proliferation Treaty of the Non-Proliferation Treaty State Party from which, to the territory of which, or otherwise under the control of which such item is transferred;

(iv) any equipment, materials, or software or related technology that significantly contributes to the design or manufacture of a nuclear weapon or other

nuclear explosive device, with the intention that it will be used for such purpose, except where—

(I) the country to the territory of which or under the control of which such item is transferred is a Nuclear Weapon State Party to the Non-Proliferation Treaty; and

(II) the resulting transfer or receipt (including internal to a country) is not contrary to the obligations under the Non-Proliferation Treaty of a Non-Proliferation Treaty State Party from which, to the territory of which, or otherwise under the control of which such item is transferred;

(v) any equipment, materials, or software or related technology that significantly contributes to the delivery of a nuclear weapon or other nuclear explosive device, with the intention that it will be used for such purpose, except where—

(I) such item is transported to or from the territory of, or otherwise under the control of, a Non-Proliferation Treaty State Party; and

(II) such item is intended for the delivery system of a nuclear weapon or other nuclear explosive device of a Nuclear Weapon State Party to the Non-Proliferation Treaty; or

(vi) any equipment, materials, or software or related technology that significantly contributes to the design, manufacture, or delivery of a biological or chemical weapon, with the intention that it will be used for such purpose;

(C) transports another person on board a ship knowing that the person has committed an act that constitutes an offense under section 2280 or subparagraphs (A), (B), (D), or (E) of this section or an offense set forth in an applicable treaty, as specified in section 2280(d)(1), and intending to assist that person to evade criminal prosecution;

(D) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in subparagraphs (A) through (C), or subsection (a)(2), to the extent that the subsection (a)(2) offense pertains to subparagraph (A); or

(E) attempts to do any act prohibited under subparagraphs (A), (B) or (D), or conspires to do any act prohibited by subparagraphs (A) through (E) or subsection (a)(2), shall be fined under this title, imprisoned not more than 20 years, or both; and if the death of any person results from conduct prohibited by this paragraph, shall be imprisoned for any term of years or for life.

(2) **THREATS.**—A person who threatens, with apparent determination and will to carry the threat into execution, to do any act prohibited under paragraph (1)(A) shall be fined under this title, imprisoned not more than 5 years, or both.

(b) **JURISDICTION.**—There is jurisdiction over the activity prohibited in subsection (a)—

(1) in the case of a covered ship, if—

(A) such activity is committed—

(i) against or on board a vessel of the United States or a vessel subject to the jurisdiction of the United States (as defined in section 70502 of title 46) at the time the prohibited activity is committed;

(ii) in the United States, including the territorial seas; or

(iii) by a national of the United States, by a United States corporation or legal entity, or by a stateless person whose habitual residence is in the United States;

(B) during the commission of such activity, a national of the United States is seized, threatened, injured, or killed;

or
(C) the offender is later found in the United States after such activity is committed;

(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; or

(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

(c) **EXCEPTIONS.**—This section shall not apply to—

(1) the activities of armed forces during an armed conflict, as those terms are understood under the law of war, which are governed by that law; or

(2) activities undertaken by military forces of a state in the exercise of their official duties.

(d)(1) **CIVIL FORFEITURE.**—Any real or personal property used or intended to be used to commit or to facilitate the commission of a violation of this section, the gross proceeds of such violation, and any real or personal property traceable to such property or proceeds, shall be subject to forfeiture.

(2) **APPLICABLE PROCEDURES.**—Seizures and forfeitures under this section shall be governed by the provisions of chapter 46 of title 18, United States Code, relating to civil forfeitures, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in section 981(d) shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security, the Attorney General, or the Secretary of Defense.

§ 2281. Violence against maritime fixed platforms

(a) * * *

* * * * *

(c) **BAR TO PROSECUTION.**—It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term “labor dispute” has the meaning set forth in [section 2(c)] section 13(c) of the Norris-LaGuardia Act, as amended (29 U.S.C. 113(c)), and the term “State” means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(d) **DEFINITIONS.**—In this section—

“continental shelf” means the sea-bed and subsoil of the submarine areas that extend beyond a country’s territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea.

“fixed platform” means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes.

【“national of the United States” has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

【“territorial sea of the United States” means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law.

【“United States”, when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands and all territories and possessions of the United States.】

(e) *EXCEPTIONS.—This section does not apply to—*

(1) *the activities of armed forces during an armed conflict, as those terms are understood under the law of war, which are governed by that law; or*

(2) *activities undertaken by military forces of a state in the exercise of their official duties.*

§ 2281a. Additional offenses against maritime fixed platforms

(a) *OFFENSES.—*

(1) *IN GENERAL.—A person who unlawfully and intentionally—*

(A) *when the purpose of the act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act—*

(i) *uses against or on a fixed platform or discharges from a fixed platform any explosive or radioactive material, biological, chemical, or nuclear weapon in a manner that causes or is likely to cause death or serious injury or damage; or*

(ii) *discharges from a fixed platform oil, liquefied natural gas, or another hazardous or noxious substance that is not covered by clause (i), in such quantity or concentration that causes or is likely to cause death or serious injury or damage;*

(B) *injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in subparagraph (A); or*

(C) *attempts or conspires to do anything prohibited under subparagraphs (A) or (B),*

shall be fined under this title, imprisoned not more than 20 years, or both; and if death results to any person from conduct prohibited by this paragraph, shall be imprisoned for any term of years or for life.

(2) *THREAT TO SAFETY.*—A person who threatens, with apparent determination and will to carry the threat into execution, to do any act prohibited under paragraph (1)(A), shall be fined under this title, imprisoned not more than 5 years, or both.

(b) *JURISDICTION.*—There is jurisdiction over the activity prohibited in subsection (a) if—

(1) such activity is committed against or on board a fixed platform—

(A) that is located on the continental shelf of the United States;

(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

(C) in an attempt to compel the United States to do or abstain from doing any act;

(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured, or killed; or

(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

(c) *EXCEPTIONS.*—This section does not apply to—

(1) the activities of armed forces during an armed conflict, as those terms are understood under the law of war, which are governed by that law; or

(2) activities undertaken by military forces of a state in the exercise of their official duties.

(d) *DEFINITIONS.*—In this section—

(1) “continental shelf” means the sea-bed and subsoil of the submarine areas that extend beyond a country’s territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea; and

(2) “fixed platform” means an artificial island, installation, or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes.

* * * * *

CHAPTER 113B—TERRORISM

Sec. 2331. Definitions. * * * * *

2332i. Acts of nuclear terrorism. * * * * *

§ 2332b. Acts of terrorism transcending national boundaries

(a) * * * * *

(g) *DEFINITIONS.*—As used in this section—

(1) * * * * *

(5) the term “Federal crime of terrorism” means an offense that—

(A) * * *

(B) is a violation of—

(i) section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at international airports), 81 (relating to arson within special maritime and territorial jurisdiction), 175 or 175b (relating to biological weapons), 175c (relating to variola virus), 229 (relating to chemical weapons), subsection (a), (b), (c), or (d) of section 351 (relating to congressional, cabinet, and Supreme Court assassination and kidnaping), 831 (relating to nuclear materials), 832 (relating to participation in nuclear and weapons of mass destruction threats to the United States) 842(m) or (n) (relating to plastic explosives), 844(f)(2) or (3) (relating to arson and bombing of Government property risking or causing death), 844(i) (relating to arson and bombing of property used in interstate commerce), 930(c) (relating to killing or attempted killing during an attack on a Federal facility with a dangerous weapon), 956(a)(1) (relating to conspiracy to murder, kidnap, or maim persons abroad), 1030(a)(1) (relating to protection of computers), 1030(a)(5)(A) resulting in damage as defined in 1030(c)(4)(A)(i)(II) through (VI) (relating to protection of computers), 1114 (relating to killing or attempted killing of officers and employees of the United States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1361 (relating to government property or contracts), 1362 (relating to destruction of communication lines, stations, or systems), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366(a) (relating to destruction of an energy facility), 1751(a), (b), (c), or (d) (relating to Presidential and Presidential staff assassination and kidnaping), 1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air), 2155 (relating to destruction of national defense materials, premises, or utilities), 2156 (relating to national defense material, premises, or utilities), 2280 (relating to violence against maritime navigation), 2280a (*relating to maritime safety*) [2281] 2281 through 2281a (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and other violence against United States nationals occurring outside of the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2332f (relating to bombing of public places and facilities), 2332g (relating to missile systems designed to destroy aircraft), 2332h (relating to radiological dispersal de-

vices), 2339 (relating to harboring terrorists), 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), 2339C (relating to financing of terrorism), 2339D (relating to military-type training from a foreign terrorist organization), or 2340A (relating to torture) of this title;

* * * * *

§ 2332i. Acts of nuclear terrorism

(a) *OFFENSES.*—

(1) *IN GENERAL.*—Whoever knowingly and unlawfully—

(A) possesses radioactive material or makes or possesses a device—

(i) with the intent to cause death or serious bodily injury; or

(ii) with the intent to cause substantial damage to property or the environment; or

(B) uses in any way radioactive material or a device, or uses or damages or interferes with the operation of a nuclear facility in a manner that causes the release of or increases the risk of the release of radioactive material, or causes radioactive contamination or exposure to radiation—

(i) with the intent to cause death or serious bodily injury or with the knowledge that such act is likely to cause death or serious bodily injury;

(ii) with the intent to cause substantial damage to property or the environment or with the knowledge that such act is likely to cause substantial damage to property or the environment; or

(iii) with the intent to compel a person, an international organization or a country to do or refrain from doing an act,

shall be punished as prescribed in subsection (c).

(2) *THREATS.*—Whoever, under circumstances in which the threat may reasonably be believed, threatens to commit an offense under paragraph (1) shall be punished as prescribed in subsection (c). Whoever demands possession of or access to radioactive material, a device or a nuclear facility by threat or by use of force shall be punished as prescribed in subsection (c).

(3) *ATTEMPTS AND CONSPIRACIES.*—Whoever attempts to commit an offense under paragraph (1) or conspires to commit an offense under paragraphs (1) or (2) shall be punished as prescribed in subsection (c).

(b) *JURISDICTION.*—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

(1) the prohibited conduct takes place in the United States or the special aircraft jurisdiction of the United States;

(2) the prohibited conduct takes place outside of the United States and—

(A) is committed by a national of the United States, a United States corporation or legal entity or a stateless person whose habitual residence is in the United States;

(B) is committed on board a vessel of the United States or a vessel subject to the jurisdiction of the United States (as defined in section 70502 of title 46) or on board an aircraft that is registered under United States law, at the time the offense is committed; or

(C) is committed in an attempt to compel the United States to do or abstain from doing any act, or constitutes a threat directed at the United States;

(3) the prohibited conduct takes place outside of the United States and a victim or an intended victim is a national of the United States or a United States corporation or legal entity, or the offense is committed against any state or government facility of the United States; or

(4) a perpetrator of the prohibited conduct is found in the United States.

(c) **PENALTIES.**—Whoever violates this section shall be fined not more than \$2,000,000 and shall be imprisoned for any term of years or for life.

(d) **NONAPPLICABILITY.**—This section does not apply to—

(1) the activities of armed forces during an armed conflict, as those terms are understood under the law of war, which are governed by that law; or

(2) activities undertaken by military forces of a state in the exercise of their official duties.

(e) **DEFINITIONS.**—As used in this section, the term—

(1) “armed conflict” has the meaning given that term in section 2332f(e)(11) of this title;

(2) “device” means:

(A) any nuclear explosive device; or

(B) any radioactive material dispersal or radiation-emitting device that may, owing to its radiological properties, cause death, serious bodily injury or substantial damage to property or the environment;

(3) “international organization” has the meaning given that term in section 831(f)(3) of this title;

(4) “military forces of a state” means the armed forces of a country that are organized, trained and equipped under its internal law for the primary purpose of national defense or security and persons acting in support of those armed forces who are under their formal command, control and responsibility;

(5) “national of the United States” has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

(6) “nuclear facility” means:

(A) any nuclear reactor, including reactors on vessels, vehicles, aircraft or space objects for use as an energy source in order to propel such vessels, vehicles, aircraft or space objects or for any other purpose;

(B) any plant or conveyance being used for the production, storage, processing or transport of radioactive material; or

(C) a facility (including associated buildings and equipment) in which nuclear material is produced, processed, used, handled, stored or disposed of, if damage to or

interference with such facility could lead to the release of significant amounts of radiation or radioactive material;

(7) "nuclear material" has the meaning given that term in section 831(f)(1) of this title;

(8) "radioactive material" means nuclear material and other radioactive substances that contain nuclides that undergo spontaneous disintegration (a process accompanied by emission of one or more types of ionizing radiation, such as alpha-, beta-, neutron particles and gamma rays) and that may, owing to their radiological or fissile properties, cause death, serious bodily injury or substantial damage to property or to the environment;

(9) "serious bodily injury" has the meaning given that term in section 831(f)(4) of this title;

(10) "state" has the same meaning as that term has under international law, and includes all political subdivisions thereof;

(11) "state or government facility" has the meaning given that term in section 2332f(e)(3) of this title;

(12) "United States corporation or legal entity" means any corporation or other entity organized under the laws of the United States or any State, Commonwealth, territory, possession or district of the United States;

(13) "vessel" has the meaning given that term in section 1502(19) of title 33; and

(14) "vessel of the United States" has the meaning given that term in section 70502 of title 46.

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