

109TH CONGRESS
1ST SESSION

S. 1949

To provide for coordination of proliferation interdiction activities and conventional arms disarmament, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 1, 2005

Mr. LUGAR (for himself and Mr. OBAMA) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To provide for coordination of proliferation interdiction activities and conventional arms disarmament, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Cooperative Prolifera-
5 tion Detection, Interdiction Assistance, and Conventional
6 Threat Reduction Act of 2005”.

TITLE I—PROLIFERATION ASSISTANCE COORDINATION

SEC. 101. SHORT TITLE.

This title may be cited as the “Cooperative Proliferation Detection and Interdiction Assistance Act of 2005”.

SEC. 102. FINDINGS.

Congress makes the following findings:

(1) On May 31, 2003, at Wawel Royal Castle, Krakow, Poland, the United States and its allies announced a new effort to fight proliferation called the Proliferation Security Initiative. The Proliferation Security Initiative creates legal means to search planes and ships carrying suspect cargo and to seize illegal weapons or missile technologies to keep the world’s most destructive weapons away from our shores and out of the hands of our common enemies.

(2) Since its inception in 2003, more than 60 countries have participated in or provided support for the Proliferation Security Initiative.

(3) The Proliferation Security Initiative has led to the negotiation of bilateral ship boarding agreements designed to facilitate the interdiction of weapons of mass destruction and related materials and means of delivery and dual-use items of proliferation concern.

1 (4) Security Council Resolution 1540, adopted
2 unanimously by the United Nations Security Council
3 on April 28, 2004, calls on all countries to take co-
4 operative action to prevent trafficking in weapons of
5 mass destruction, related materials, and means of
6 delivery and dual-use items of proliferation concern.

7 (5) Security Council Resolution 1540 provides a
8 basis for the establishment of an internationally ac-
9 cepted practice regarding criminalization of the traf-
10 ficking of weapons of mass destruction, related ma-
11 terials and means of delivery, and dual-use items of
12 proliferation concern.

13 (6) The Report of the United Nations Secretary
14 General's High Level Panel on Threats, Challenges,
15 and Change, dated September 23, 2003, found that
16 “[r]ecent experience of the activities of the A.Q.
17 Khan network has demonstrated the need for and
18 the value of measures taken to interdict the illicit
19 and clandestine trade in components for nuclear pro-
20 grams”.

21 (7) The Report also welcomes “the voluntary
22 Proliferation Security Initiative, under which more
23 and more states are cooperating to prevent illicit
24 trafficking in nuclear, biological, and chemical weap-
25 ons”.

1 (8) There have been a number of air, land, and
2 sea interdiction training exercises conducted under
3 the Proliferation Security Initiative.

4 (9) The United States provides foreign assist-
5 ance to many countries participating in the Pro-
6 liferation Security Initiative, including the following
7 types of assistance:

8 (A) International narcotics control under
9 chapter 8 of part I of the Foreign Assistance
10 Act of 1961 (22 U.S.C. 2291 et seq.).

11 (B) Border control assistance under sec-
12 tion 499C of the Foreign Assistance Act of
13 1961 (22 U.S.C. 2296c).

14 (C) Military assistance, education, and
15 training under chapters 2, 3, and 5 of part II
16 of the Foreign Assistance Act of 1961 (22
17 U.S.C. 2291 et seq.).

18 (D) Antiterrorism assistance under chapter
19 8 of part II of the Foreign Assistance Act of
20 1961 (22 U.S.C. 2291 et seq.).

21 (E) Nonproliferation and export control as-
22 sistance under chapter 9 of part II of the For-
23 eign Assistance Act of 1961 (22 U.S.C. 2934bb
24 et seq.).

1 (F) Activities carried out under sections
2 503 and 504 of the FREEDOM Support Act
3 (22 U.S.C. 5853 and 5854).

4 (10) Many countries participating in the Pro-
5 liferation Security Initiative also are provided de-
6 fense articles and services and foreign military sales
7 under the Arms Export Control Act (22 U.S.C.
8 2751 et seq.), a purpose of which, as specified in
9 section 4 of the Act (22 U.S.C. 2754), is to prevent
10 or hinder the proliferation of weapons of mass de-
11 struction and the means of delivering such weapons.

12 (11) Congress has specifically authorized the
13 President to provide countries with proliferation
14 interdiction assistance under chapter 9 of part II of
15 the Foreign Assistance Act of 1961 (22 U.S.C.
16 2394bb et seq.), which provides that—

17 (A) the President should ensure that not
18 less than $\frac{1}{4}$ of the assistance provided under
19 such chapter is expended for the purpose of en-
20 hancing the capabilities of friendly countries to
21 detect and interdict proliferation-related ship-
22 ments of cargo that originate from, and are
23 destined for, other countries; and

24 (B) priority should be given to any friendly
25 country that has been determined by the Sec-

1 retary of State to be a country frequently
2 transited by proliferation-related shipments of
3 cargo.

4 (12) Many executive agencies and departments
5 currently furnish assistance to nations participating
6 in the Proliferation Security Initiative, including the
7 following:

8 (A) Nunn-Lugar/Cooperative Threat Re-
9 duction programs carried out under the Soviet
10 Nuclear Threat Reduction Act of 1991 (title II
11 of Public Law 102–228; 22 U.S.C. 2551 note)
12 and the Cooperative Threat Reduction Act of
13 1993 (title XII of Public Law 103–160; 22
14 U.S.C. 5951 note).

15 (B) Ongoing programs and activities of the
16 Department of Energy authorized under sub-
17 title C of title XXXI of division C of the Ronald
18 W. Reagan National Defense Authorization Act
19 for fiscal year 2005 (Public Law 108–375).

20 (C) Other programs assisting friendly for-
21 eign countries in law enforcement, regulatory,
22 and operational capabilities to enhance the po-
23 tential of such countries in interdicting weapons
24 of mass destruction, related materials and

1 means of delivery, and any dual-use items of
2 proliferation concern.

3 (13) While statutory authority exists to assist
4 friendly foreign countries in meeting the threat
5 posed by the proliferation of weapons of mass de-
6 struction, related materials and means of delivery,
7 and dual-use items of proliferation concern, there is
8 no mechanism for coordinating within the executive
9 branch programs and assistance implemented under
10 those authorities in order to ensure the most effec-
11 tive use of United States assistance to train and
12 equip friendly foreign countries to deal with this
13 threat.

14 (14) There is need for the establishment in the
15 executive branch of a plan and program for coordi-
16 nating and implementing proliferation detection and
17 interdiction assistance.

18 **SEC. 103. PROLIFERATION INTERDICTION SUPPORT PRO-**
19 **GRAM.**

20 (a) PROGRAM.—Consistent with section 583 of the
21 Foreign Assistance Act of 1961 (22 U.S.C. 2349bb–2),
22 as amended by subsection (c), the President is authorized
23 to establish a program to provide assistance to friendly
24 foreign countries for proliferation detection and interdic-
25 tion activities.

1 (b) REPORT ON EXISTING PROLIFERATION DETEC-
2 TION AND INTERDICTION ASSISTANCE.—

3 (1) REPORT REQUIRED.—Not later than 180
4 days after the date of the enactment of this Act, the
5 President shall submit to the Committee on Foreign
6 Relations of the Senate and the Committee on Inter-
7 national Relations of the House of Representatives
8 a report on proliferation and interdiction assistance.

9 (2) CONTENT.—The report required under
10 paragraph (1) shall—

11 (A) specify in detail, including program
12 cost, on a country-by-country basis, the assist-
13 ance being provided by the Department of State
14 to train and equip personnel in friendly foreign
15 countries in the detection and interdiction of
16 proliferation-related shipments of weapons of
17 mass destruction, related materials and means
18 of delivery, and dual-use items of proliferation
19 concern; and

20 (B) specify, on an agency-by-agency basis,
21 funding that is being transferred by the De-
22 partment of State to other executive agencies to
23 carry out such programs.

1 (c) INTERDICTION ASSISTANCE AMENDMENTS.—Sec-
2 tion 583 of the Foreign Assistance Act of 1961 (22 U.S.C.
3 2349bb–2) is amended—

4 (1) in subsection (a)—

5 (A) by striking “should ensure that” and
6 inserting “shall ensure that, beginning in fiscal
7 year 2007,”;

8 (B) by striking “expended” and inserting
9 “obligated”; and

10 (C) by striking “that originate from, and
11 are destined for, other countries” and inserting
12 “to states and non-state actors of proliferation
13 concern”; and

14 (2) by adding at the end the following new sub-
15 sections:

16 “(c) COOPERATIVE AGREEMENTS.—In order to pro-
17 mote cooperation regarding the interdiction of weapons of
18 mass destruction and related materials and delivery sys-
19 tems, the President is authorized to conclude agreements,
20 including reciprocal maritime agreements, with other
21 countries to facilitate effective measures to prevent the
22 transportation of such items to states and non-state actors
23 of proliferation concern.

24 “(d) DETERMINATION AND NOTICE TO CONGRESS.—
25 The Secretary of State shall notify the Committee on For-

1 eign Relations of the Senate and the Committee on Inter-
 2 national Relations of the House of Representatives in writ-
 3 ing not more than 30 days after making a determination
 4 that any friendly country has been determined to be a
 5 country eligible for priority consideration of any assistance
 6 under subsection (b). Such determination shall set forth
 7 the reasons for such determination, and may be submitted
 8 in classified and unclassified form, as necessary.”.

9 (d) FISCAL YEAR 2006 ASSISTANCE.—Not less than
 10 $\frac{1}{4}$ of the amount made available for nonproliferation, anti-
 11 terrorism, demining and related programs and activities
 12 for fiscal year 2006 shall be made available to establish
 13 the program under subsection (a).

14 **SEC. 104. OFFICE OF PROLIFERATION DETECTION AND**
 15 **INTERDICTION ASSISTANCE COORDINATION.**

16 (a) ESTABLISHMENT.—There is established within
 17 the Department of State an Office of Proliferation Detec-
 18 tion and Interdiction Assistance Coordination. The prin-
 19 cipal duties of such office are to plan and administer pro-
 20 grams to carry out activities under section 103.

21 (b) AUTHORIZATION OF APPROPRIATIONS.—There
 22 are authorized to be appropriated to the President such
 23 sums as may be necessary to establish and operate the
 24 Office of Proliferation Detection and Interdiction Assist-
 25 ance Coordination.

1 **SEC. 105. REPORT ON FRIENDLY COUNTRIES FREQUENTLY**
2 **TRANSITED BY PROLIFERATION-RELATED**
3 **SHIPMENTS OF CARGO.**

4 Not later than 60 days after the date of the enact-
5 ment of this Act, the Secretary of State shall submit to
6 the Committee on Foreign Relations of the Senate and
7 the Committee on International Relations of the House
8 of Representatives a report—

9 (1) listing any friendly foreign countries for
10 which the Secretary of State has made a determina-
11 tion under section 583(b) of the Foreign Assistance
12 Act of 1961 (22 U.S.C. 2349bb–2(b)); and

13 (2) stating whether, pursuant to section 583(a)
14 of such Act (22 U.S.C. 2349bb–2(a)), $\frac{1}{4}$ of any as-
15 sistance provided to such countries under chapter 9
16 of part II of the Foreign Assistance Act of 1961 (22
17 U.S.C. 2349bb et seq.) has been obligated for the
18 purposes authorized in that section and, if not, the
19 reasons therefor.

20 **SEC. 106. PERMANENT AUTHORITY TO USE NON-**
21 **PROLIFERATION AND DISARMAMENT FUND**
22 **FOR ACTIVITIES OUTSIDE INDEPENDENT**
23 **STATES OF THE FORMER SOVIET UNION.**

24 Activities authorized to be carried out under the Non-
25 proliferation and Disarmament Fund in the independent
26 states of the former Soviet Union under section 504 of

1 the FREEDOM Support Act (22 U.S.C. 5854) may also
 2 be carried out in countries other than the independent
 3 states of the former Soviet Union and with respect to
 4 international organizations when such activities are in the
 5 national security interest of the United States.

6 **SEC. 107. USE OF MILITARY ASSISTANCE FOR PROLIFERA-**
 7 **TION INTERDICTION OR DETECTION.**

8 (a) RELATIONSHIP OF MILITARY ASSISTANCE TO
 9 PROLIFERATION INTERDICTION OR DETECTION.—At the
 10 end of chapter 2 of part 2 of the Foreign Assistance Act
 11 of 1961 (22 U.S.C. 2311 et seq.) insert the following new
 12 section:

13 **“SEC. 518. ALLOCATION OF FUNDS.**

14 “(a) IN GENERAL.—In carrying out the provisions of
 15 this chapter, the President should ensure that, when it is
 16 in the national security interest of the United States, not
 17 less than one-quarter of the assistance furnished under
 18 this chapter will enhance the capabilities of friendly for-
 19 eign countries to detect or interdict the illicit trafficking
 20 of weapons of mass destruction, related materials, and
 21 means of delivery and dual-use items of proliferation con-
 22 cern.

23 “(b) EXCEPTION.—The President shall not, for
 24 puposes of compliance with subsection (a), modify in any

1 way the allocation of funds under this chapter made pur-
2 suant to any peace accord.”.

3 (b) REPORT ON MILITARY ASSISTANCE AND PRO-
4 LIFERATION INTERDICTION OR DETECTION.—

5 (1) REQUIREMENT FOR REPORT.—The Presi-
6 dent shall prepare a report regarding the uses of
7 military assistance for the purpose of training and
8 equipping friendly foreign countries in the detection
9 or interdiction of weapons of mass destruction, re-
10 lated materials, and means of delivery and related
11 dual-use items of proliferation concern. The Presi-
12 dent shall submit such report together with the re-
13 port submitted pursuant to section 25 of the Arms
14 Export Control Act (22 U.S.C. 2765) for calendar
15 year 2005.

16 (2) CONTENT.—The report regarding the uses
17 of military assistance required by paragraph (1)
18 shall include—

19 (A) an examination of the extent to which
20 the annual allocations of military assistance
21 under part II of chapter 2 of the Foreign As-
22 sistance Act of 1961 (22 U.S.C. 2311 et seq.)
23 takes into account the capabilities of friendly
24 foreign countries to detect or interdict the illicit
25 trafficking of weapons of mass destruction, re-

1 lated materials, and means of delivery and dual-
2 use items of proliferation concern; and

3 (B) an assessment of the extent to which
4 equipment furnished to friendly foreign coun-
5 tries under foreign military sales have contrib-
6 uted to detection or interdiction capabilities of
7 such countries.

8 **SEC. 108. REPEAL OF OBSOLETE AUTHORITY.**

9 Section 586 of the Foreign Assistance Act of 1961
10 (22 U.S.C. 2349bb–4) is repealed.

11 **TITLE II—CONVENTIONAL ARMS**
12 **DISARMAMENT**

13 **SEC. 201. SHORT TITLE.**

14 This title may be cited as the “Conventional Arms
15 Disarmament Act of 2005”.

16 **SEC. 202. FINDINGS; SENSE OF CONGRESS.**

17 (a) FINDINGS.—Congress makes the following find-
18 ings:

19 (1) The global proliferation of man-portable air
20 defense systems (MANPADS), other conventional
21 weapons, and tactical missile systems poses a direct
22 threat to the national security of the United States.

23 (2) The use of MANPADS and other conven-
24 tional weapons by terrorists and insurgent groups

1 continues to hamper United States efforts to achieve
2 peace and security in Iraq and Afghanistan.

3 (3) The proliferation of tactical missile systems
4 provides many regimes with a means of income and
5 threatens international peace and security.

6 (4) The Government Accountability Office has
7 estimated that there are between 500,000 and
8 750,000 MANPADS in the world.

9 (5) Many countries that possess stocks of
10 MANPADS, other conventional weapons, and tac-
11 tical missile systems no longer require such weapons
12 for their own security or self defense, but do not
13 possess the means for the elimination or safe-
14 guarding of such systems.

15 (6) There is currently no single United States
16 program designed to promote efforts in other coun-
17 tries related to conventional arms threat reduction
18 and the elimination of tactical missiles.

19 (7) The Department of State has not used the
20 Nonproliferation and Disarmament Fund for any ac-
21 tivity to eliminate any tactical missile systems since
22 2002.

23 (8) The proliferation of conventional weapons in
24 developing countries that have experienced civil con-

1 flict threatens political stability and economic devel-
 2 opment in those countries and neighboring countries.

3 (9) Land mines left over from past conflicts
 4 continue to pose a humanitarian threat and a bar-
 5 rier to economic development in many countries
 6 around the world.

7 (b) SENSE OF CONGRESS.—It is the sense of Con-
 8 gress that—

9 (1) where appropriate, the United States Gov-
 10 ernment should provide assistance to countries seek-
 11 ing to secure, remove, or eliminate stocks of
 12 MANPADS, other conventional weapons, and tac-
 13 tical missile systems that pose a proliferation threat;
 14 and

15 (2) given the clear links between global net-
 16 works of terrorism and networks of the illicit trade
 17 in conventional weapons, the United States Govern-
 18 ment should place consistent, broad, and continued
 19 emphasis on combating the proliferation of
 20 MANPADS, other conventional weapons, and tac-
 21 tical missile systems within the broader nonprolifera-
 22 tion strategy of the United States.

23 **SEC. 203. STATEMENT OF POLICY.**

24 It is the policy of the United States to assist the gov-
 25 ernments of other countries in safeguarding or eliminating

1 stocks of MANPADS, other conventional weapons, and
 2 tactical missile systems that pose a proliferation, local or
 3 regional security, or humanitarian threat.

4 **SEC. 204. GLOBAL PROGRAM FOR THE SAFEGUARDING AND**
 5 **ELIMINATION OF CONVENTIONAL ARMS.**

6 (a) IN GENERAL.—The Secretary of State is author-
 7 ized to carry out an accelerated global program to secure,
 8 remove, or eliminate stocks of MANPADS, other conven-
 9 tional weapons, and tactical missile systems, as well as re-
 10 lated equipment and facilities, that are determined by the
 11 Secretary to pose a proliferation threat.

12 (b) PROGRAM ELEMENTS.—The program authorized
 13 under subsection (a) may include the following activities:

14 (1) Humanitarian demining activities.

15 (2) Programs for the elimination or securing of
 16 tactical missile systems.

17 (3) Programs for the elimination or securing of
 18 MANPADS.

19 (4) Activities to destroy other conventional
 20 weapons.

21 (5) Programs to assist countries in the safe
 22 handling and proper storage of MANPADS, other
 23 conventional weapons, and tactical missile systems.

24 (6) Cooperative programs with the North Atlan-
 25 tic Treaty Organization and other international or-

ganizations to assist countries in the safe handling and proper storage or elimination of MANPADS, other conventional weapons, and tactical missile systems.

(7) The utilization of funds for the elimination or safeguarding of MANPADS, other conventional weapons, and tactical missile systems.

(8) The management of MANPADS, other conventional weapons, and tactical missile systems at locations where United States funds have been used to provide for the security of such weapons.

(9) Actions to ensure that equipment and funds, including security upgrades at locations for the storage or disposition of MANPADS, other conventional weapons, tactical missile systems, and related equipment that are determined by the Secretary of State to pose a proliferation threat, continue to be used for authorized purposes.

SEC. 205. REDESIGNATION OF OFFICE OF WEAPONS REMOVAL AND ABATEMENT AS OFFICE OF CONVENTIONAL ARMS THREAT REDUCTION.

(a) REDESIGNATION.—The Office of Weapons Removal and Abatement of the Department of State is redesignated the Office of Conventional Arms Threat Reduction. The principal duties of the office are to formulate

1 policy on conventional arms threat reduction and to plan
2 and administer programs for carrying out activities under
3 section 204.

4 (b) REFERENCE.—Any reference in a law, map, regu-
5 lation, document, paper, or other record of the United
6 States to the Office of Weapons Removal and Abatement
7 referred to in subsection (a) shall be deemed to be a ref-
8 erence to the Office of Conventional Arms Threat Reduc-
9 tion.

10 **SEC. 206. REPORT ON CONVENTIONAL ARMS THREAT RE-**
11 **DUCTION.**

12 (a) IN GENERAL.—Not later than 180 days after the
13 date of the enactment of this Act, the Secretary of State
14 shall submit to the Committees on Foreign Relations and
15 Appropriations of the Senate and the Committees on
16 International Relations and Appropriations of the House
17 of Representatives a report on conventional arms threat
18 reduction.

19 (b) CONTENT.—The report required under subsection
20 (a) shall include the following information:

21 (1) A description of prior efforts of the Depart-
22 ment of State regarding conventional arms threat
23 reduction.

24 (2) A description of the progress made in initi-
25 ating the operations of the Office of Conventional

1 Arms Threat Reduction, as redesignated under sec-
2 tion 205.

3 (3) A description, on a country-by-country
4 basis, of the implementation of a global strategy for
5 the elimination or safeguarding of MANPADS, other
6 conventional weapons, and tactical missile systems,
7 including, to the extent possible, a prioritization of
8 such elimination and safeguarding efforts with re-
9 spect to the proliferation sensitivity of such weapons
10 in each country and their potential impact on local
11 and regional security.

12 (4) An evaluation of the extent to which activi-
13 ties under this title and other United States Govern-
14 ment programs are integrated to ensure that the
15 conventional arms threat reduction efforts of the
16 United States are consistent with United States pol-
17 icy and goals in countries receiving assistance
18 through such activities.

19 (5) A description of the scope and nature of
20 United States programs related to the elimination of
21 tactical missile systems, in particular, efforts under
22 the Nonproliferation and Disarmament Fund re-
23 garding the elimination of such systems.

1 (c) FORM.—The report required under subsection (a)
 2 shall be in unclassified form, but may contain a classified
 3 annex.

4 **SEC. 207. AUTHORIZATION OF APPROPRIATIONS.**

5 (a) IN GENERAL.—There is authorized to be appro-
 6 priated \$20,000,000 for Nonproliferation, Anti-Terrorism,
 7 Demining, and Related Programs for fiscal year 2006 for
 8 activities related to the securing, removal, or elimination
 9 of stocks of MANPADS, other conventional weapons, tac-
 10 tical missile systems, and related equipment and facilities.

11 (b) LIMITATION.—Of the funds made available under
 12 subsection (a), not more than \$10,000,000 may be obli-
 13 gated until the Secretary submits to the Committees on
 14 Foreign Relations and Appropriations of the Senate and
 15 the Committees on International Relations and Appropria-
 16 tions of the House of Representatives the report required
 17 under section 206.

18 **SEC. 208. NONPROLIFERATION AND DISARMAMENT FUND**

19 **DEFINED.**

20 In this title, the term “Nonproliferation and Disar-
 21 mament Fund” means the Nonproliferation and Disar-
 22 mament Fund established under section 504 of the
 23 FREEDOM Support Act (22 U.S.C. 5854).

