

A REPORT TO THE CONGRESS ON
EXECUTIVE ORDER 12938

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A REPORT ON EXECUTIVE ORDER 12938, AS REQUIRED BY SECTION 204 OF THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT AND SECTION 401(c) OF THE NATIONAL EMERGENCIES ACT, PURSUANT TO 50 U.S.C. 1703(c) AND 50 U.S.C. 1614(c)



JULY 10, 2001.—Message and accompanying papers referred to the Committee on International Relations and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

To the Congress of the United States:

Enclosed is a report to the Congress on Executive Order 12938, as required by section 204 of the International Emergency Economic Powers Act (50 U.S.C. 1703(c)) and section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)).

GEORGE W. BUSH.

THE WHITE HOUSE, *June 28, 2001.*

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

Weapons of mass destruction (WMD) (nuclear, chemical, and biological weapons) and their missile delivery vehicles are among the top threats to U.S. security in the post-Cold War world. In the hands of countries like Iran, Iraq, Libya, and North Korea, these weapons pose direct threats to U.S. forces and citizens overseas and to our friends and allies abroad. WMD already poses a threat to U.S. territory via terrorism and unconventional delivery means, and some countries of concern are already working on intercontinental-range missiles that would be able to deliver WMD against our territory directly.

Since taking office in January 2001, my Administration has given high priority to dealing with the threat of WMD and missile proliferation. These issues figure prominently in a number of policy reviews (e.g., concerning North Korea), as well as in the Administration's reexamination of U.S. deterrence strategy and force posture.

WMD and missile nonproliferation measures undertaken by the United States between November 2000 and May 2001 are the subject of this report. In November 1994, in light of the dangers of the proliferation of WMD and of the means of delivering such weapons, President Clinton issued Executive Order No. 12938, declaring a national emergency under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.). Under section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), the national emergency terminates on the anniversary date of its declaration unless, within the 90-day period prior to each anniversary date, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that such emergency is to continue in effect. The national emergency was extended on November 14, 1995; November 12, 1996; November 13, 1997; November 12, 1998; November 10, 1999; and November 12, 2000.

The following report is made pursuant to Section 204(c) of the International Emergency Economic Powers Act (50 U.S.C. 1703(c)) and Section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)). It reports actions taken and expenditures incurred pursuant to the emergency declaration during the period November 12, 2000 through May 15, 2001. Additional information on nuclear, chemical, and biological weapons (CBW) and missile nonproliferation efforts is contained in the most recent annual Report on the Proliferation of Missiles and Essential Components of Nuclear, Biological and Chemical Weapons. This report was provided to Congress pursuant to Section 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190), also known as the "Nonproliferation Report." Additional information in this regard is also contained in the most recent annual report pro-

vided to the Congress pursuant to Section 308 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (Public Law 102-182), also known as the "CBW Report."

On July 28, 1998, in E.O. 13094, President Clinton amended section 4 of E.O. 12938 to broaden the type of proliferation activity that can subject entities to potential penalties under the Executive Order. The original Executive Order provided for penalties for contributions to the efforts of any foreign country, project or entity to use, acquire, design, produce, or stockpile chemical or biological weapons; the amended Executive Order also covers contributions to foreign programs for nuclear weapons and for missiles capable of delivering weapons of mass destruction. Moreover, the amendment expands the original Executive Order to include attempts to contribute to foreign proliferation activities, as well as actual contributions, and broadens the range of potential penalties to expressly include the prohibition of United States Government assistance to foreign persons, and the prohibition of imports into the United States and United States Government procurement. In sum, the amendment gives the United States Government greater flexibility in deciding how and to what extent to impose measures against foreign persons that assist proliferation programs.

NUCLEAR WEAPONS

Since their May 1998 nuclear tests, India and Pakistan have openly pursued their respective nuclear weapon programs. They have continued production of fissile material for nuclear weapons and have flight-tested nuclear-capable ballistic missiles. Their continued production of weapons-grade fissile material coupled with possession of fighter aircraft capable of delivering nuclear weapons gives both India and Pakistan the ability today to conduct a nuclear exchange. Flight testing of nuclear capable ballistic missiles by both countries raises the prospect that more sophisticated and possibly destabilizing capabilities will be fielded in the coming years. We have sought to persuade New Delhi and Islamabad that open-ended nuclear and missile competition in South Asia would adversely affect both the subcontinent and other regions. We have pressed for restraint, especially to not deploy nuclear weapons or nuclear-capable ballistic missiles.

Since the mandatory imposition of U.S. statutory sanctions, we have worked unilaterally, with other P-5 and G-8 members, with the South Asia Task Force (SATF), and through the UN to urge India and Pakistan to move toward the international nonproliferation mainstream. Support for international sanctions by other countries continues to attenuate, however.

We have supported calls by the P-5 and G-8, and UN Security Council on India and Pakistan to take a broad range of concrete actions designed to prevent a costly and destabilizing nuclear arms and missile race, with possible implications beyond the region. During the Clinton Administration, the United States focused most intensely on several objectives that it thought could be met over the short and medium term: an end to nuclear testing and adherence to the Comprehensive Nuclear-Test Ban Treaty (CTBT); constructive engagement in negotiations on a Fissile Material Cutoff Treaty (FMCT) and, pending its conclusion, a moratorium on production of

fissile material for nuclear weapons and other nuclear explosive devices; restraint in the development of nuclear-capable missiles, particularly non-deployment; and adoption of controls meeting international standards on exports of sensitive materials and technology.

Intensive high-level U.S. dialogues with Indian and Pakistani officials yielded only modest progress, principally on export controls. Indian and Pakistani leaders reaffirmed their countries' testing moratoria, declared in the wake of the tests. Indian Prime Minister Vajpayee announced during his visit to Washington in September 2000 that India would maintain its moratorium until CTBT entered into force. Pakistan's leaders have said Pakistan will not be the first to test.

India and Pakistan both withdrew their opposition to negotiations on an FMCT in Geneva at the end of the 1998 Conference on Disarmament session, and negotiations got underway for a brief time. However, these negotiations were unable to resume in 1999 or 2000 due to a deadlock over the negotiating mandate.

Some progress was achieved in bringing Indian and Pakistan export controls, while non-specific, but generally effective, into closer conformity with international standards. In April 2000, India instituted new, more specific regulations on many categories of sensitive non-nuclear equipment and technology, and has said that nuclear-related regulations will be forthcoming. In July 2000, Pakistan publicly announced regulations restricting nuclear exports and has indicated that further measures are being prepared. Both countries' steps still fall short of international standards, however. We have begun with India a program of technical cooperation designed to improve the effectiveness of its already extensive export controls, and to encourage further steps to bring India's controls in line with international standards. Similar assistance to Pakistan is prohibited by coup-related sanctions.

The summer 1999 Kargil conflict and the October 1999 military take-over in Pakistan resulted in the suspension of the Indo-Pakistani bilateral dialogue begun at Lahore. Tensions remain high, particularly over insurgent attacks in Kashmir. India unilaterally suspended offensive military operations in Kashmir in November of 2000, and India and Pakistan have all but ceased artillery barrages across the line of control.

My Administration has an active review underway of U.S. non-proliferation related sanctions policy toward South Asia. The results of that review will be discussed in the November 2001 version of this report.

In October 1994, the United States and the Democratic People's Republic of Korea (DPRK or North Korea) signed an Agreed Framework which, if fully implemented, will ultimately result in Pyongyang's full compliance with the International Atomic Energy Agency (IAEA) safeguards agreement. Under the Agreed framework, as it has been interpreted to date, the DPRK is not required to come into full compliance with its IAEA safeguards agreement until a significant portion of the light water reactor project is completed, but must do so before the delivery of key nuclear components. As a first step, North Korea froze construction and operations at its declared nuclear facilities at Yongbyon and Taechon.

The freeze remains in place and is monitored by the IAEA, which has maintained a continuous presence at the Yongbyon site since 1994.

The United States and DPRK have also cooperated in the canning of spent fuel from the North's 5 megawatt nuclear reactor. Canning of all accessible spent fuel rods and rod fragments was completed in April 2000. The IAEA continues to monitor the canned fuel and has confirmed that any remaining rod fragments, which are currently inaccessible, do not represent a proliferation concern. The U.S. spent-fuel team regularly returns to the DPRK to continue clean-up operations and to look at maintenance.

The Agreed Framework bars the DPRK from constructing any new graphite-moderated reactors or related facilities, including reprocessing plants. United States identification in mid-1998 of an underground site near Kumchang-ni in North Korea, which was suspected of being nuclear-related, led to an arrangement providing for U.S. access to the site as long as U.S. suspicions remained. On the basis of visits to the facility in May 1999 and May 2000, the United States concluded that the site as then configured was not suited to house a nuclear reactor or reprocessing operations and therefore was not a violation of the Agreed Framework. The U.S.-DPRK Joint Communiqué issued in October 2000, following the visit of DPRK Special Envoy Jo Myong Rok to Washington, stated that "U.S. concern" about Kumchang-ni had been "removed." In that document, both sides pledged to "redouble their commitment and their efforts to fulfill their respective obligations in their entirety under the Agreed Framework." The DPRK also reaffirmed its ballistic missile flight test moratorium.

In March 2001, I met with ROK President Kim Dae-Jung. The resulting joint statement reaffirmed the commitment of the United States and the ROK to continue the 1994 Agreed Framework, while calling on North Korea "to join in taking the needed steps for its successful implementation." Subsequently, in March 2001, My Administration began a full review of U.S. policy toward North Korea, with the purpose of determining the nature of any future U.S. dialogue with North Korea. My Administration is taking into account the views of key allies as it proceeds with the ongoing review. The results of the review will be discussed in the November 2001 version of this report.

The Nuclear Non-Proliferation Treaty (NPT) is the cornerstone of the global nuclear nonproliferation regime. The April-May 2000 NPT Review Conference (REVCON) concluded successfully and provided an important boost to the NPT and to nuclear nonproliferation goals in general. In the Fall of 2000, the REVCON outcome was reinforced at the UN General Assembly and at the General Conference of the IAEA. The United States continued to pursue policies aimed at advancing the goals of the NPT, particularly those related to compliance with the Treaty's nonproliferation obligations. In March 2001, the United States met with other NPT Depository Governments (UK and Russia) in Geneva to discuss the procedural steps necessary to begin the review process leading to the next Conference of NPT Parties in 2005.

The IAEA attempts to verify states' compliance with their safeguards agreement pursuant to their NPT obligations. The discovery

at the time of the Gulf War of Iraq's extensive covert nuclear activities led to an international consensus in favor of strengthening the IAEA safeguards system's ability to detect undeclared nuclear material and activities. The United States and a large number of like-minded states negotiated in the mid-1990s substantial safeguards strengthening measures, including the use of environmental sampling techniques, expansion of the classes of nuclear activities states are required to declare, and expansion of IAEA access rights. Measures requiring additional legal authority are embodied in a Model Additional Protocol approved in 1997. This Protocol has now been signed by 55 states and has entered into force for 19 countries. Provided the IAEA is given the resources and political support it needs to implement its new safeguards measures effectively, proliferators who have ratified the Additional Protocol will likely find it harder to evade the system. However, to date, no country of concern/proliferator has adopted the Protocol.

The purpose of the 35-nation Nuclear Non-Proliferation Treaty (NPT) Exporters (Zangger) Committee is to harmonize implementation of the Non-Proliferation Treaty's requirement to apply IAEA safeguards to nuclear exports. Article III.2 of the Treaty requires parties to ensure that IAEA safeguards are applied to exports to non-nuclear weapon states of (a) source or special fissionable material, or (b) equipment or material especially designed or prepared for the processing, use or production of special fissionable material. The Committee maintains and updates a list (the "Trigger List") of equipment that may only be exported if safeguards are applied to the recipient facility. The relative informality of the Zangger Committee has enabled it to take the lead on certain nonproliferation issues that would be more difficult to resolve in the Nuclear Suppliers Group (NSG).

As its October 2000 meeting, the Committee discussed the results of the 2000 NPT REVCON. The Committee agreed to form two informal "Friends of the Chair" groups to: (1) consider preparations for the 2005 NPT REVCON; and (2) continue consideration of possible future adoption of a policy of requiring full-scope safeguards as a condition of supply to non-nuclear weapon states. At the meeting, members also agreed that the materials americium and neptunium fell outside the scope of NPT Article III.2 for inclusion on the Trigger List, but no agreement was reached on the consideration of adding plutonium enrichment equipment to the Trigger List.

All of the NPT nuclear weapon states, including China, are members of the Zangger Committee. However, unlike all of the other nuclear weapon states, China is not a member of the NSG, which requires its members to adhere to a policy of requiring non-nuclear weapon states to accept IAEA full-scope safeguards as a condition of supply. China has been reluctant to agree to this policy.

With 39 member states, the NSG is a widely accepted and effective export-control arrangement, which contributes to the non-proliferation of nuclear weapons through implementation of guidelines for control of nuclear and nuclear-related exports. Members pursue the aims of the NSG through adherence to the Guidelines, which are adopted by consensus, and through exchanges of information on developments of nuclear proliferation concern.

Slovenia became the newest member of the NSG in October 2000. NSG members sometimes allow non-member nations deemed eligible for NSG membership to participate in Plenary meetings as observers. While not a NSG member, China has taken a major step toward harmonization of its export control system with the NSG Part 2 Guidelines by the implementation of controls over nuclear-related dual-use equipment, material, and related technology.

A special meeting was held in Vienna in December 2000 on the issue of Russian nuclear supply to India. The United States and more than 30 other NSG members expressed strong concern over the proposed Russian supply of fuel to the Tarapur reactors. NSG members overwhelmingly agreed that such supply clearly does not qualify for the safety exemption to the NSG full scope safeguards policy and thus not only would seriously undercut the NSG Guidelines but also the global nuclear nonproliferation regime. Despite this, the Russians have made clear that they intend to proceed with the Tarapur transfer anyway, and we anticipate this issue will continue to be discussed at future NSG meetings.

In April 2001, the NSG Implementation Working Group reached an ad referendum agreement on proposed procedures including responsibilities of the Plenary, Chair, Consultative Group, and Point of Contact as well as procedures for consideration of new members, consultations, and amendment of the guidelines. Russia introduced a proposal to accord "associate membership" to certain countries which have not accepted IAEA full-scope safeguards but have nuclear weapons programs. Discussion has been deferred until the May 2001 Plenary.

CHEMICAL AND BIOLOGICAL WEAPONS (CBW)

The export control regulations issued under the Expanded Proliferation Control Initiative (EPCI) remain fully in force and continue to be administered by the Department of Commerce, in consultation with other agencies, in order to control the export of items with potential use in chemical or biological weapons or unmanned delivery systems for weapons of mass destruction.

Chemical weapons (CW) continue to pose a very serious threat to our security and that of our allies. On April 29, 1997, the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (the Chemical Weapons Convention or CWC) entered into force with 87 of the CWC's 165 States Signatories as original States Parties, including the United States, which ratified on April 25, 1997. Russia ratified the CWC on November 5, 1997, and became a State Party on December 8, 1997. As of the end of this reporting period, 143 countries have become States Parties.

The implementing body for the CWC, the Organization for the Prohibition of Chemical Weapons (OPCW), was established on April 29, 1997. The OPCW, located in The Hague, is comprised of States Parties and international civil servants that are responsible for implementing the CWC. The OPCW consists of the Conference of the States Parties, the Executive Council (EC), and the Technical Secretariat (TS). The TS carries out the verification provisions of the CWC, and presently has a staff of approximately 500, including about 200 inspectors trained and equipped to inspect

military and industrial facilities throughout the world. To date, the OPCW has conducted over 940 routine inspections in some 48 countries. No challenge inspections have yet taken place. The OPCW maintains a permanent inspector presence at operational U.S. CW destruction facilities in Utah and elsewhere. Accordingly, approximately 70 percent of the inspection days have been at U.S. declared facilities.

The United States is determined to seek full implementation of the concrete measures in the CWC designed to raise the costs and risks for states or other entities attempting to engage in chemical weapons-related activities. Receiving accurate and complete declarations from all States Parties will improve our knowledge of possible chemical weapons-related activities. The CWC's inspection provisions provide for access by international inspectors to declared and potentially undeclared facilities and locations, thus making clandestine chemical weapons production and stockpiling more difficult, more risky, and more expensive.

The Chemical Weapons Convention Implementation Act of 1998 was enacted into U.S. law on October 21, 1998, as part of the Omnibus Consolidated and Emergency Supplemental Appropriation Act for Fiscal Year 1999 (P.L. 105-277). The Clinton Administration issued Executive Order 13128 on June 25, 1999, and Presidential Decision Directive/NSC-70 on December 17, 1999 to facilitate implementation of the Act and the Convention. Regulations regarding declarations and inspections of industrial facilities were published on December 30, 1999. The United States commenced its submission of industry declarations at the end of April 2000, and hosted its first industry inspection on May 8, 2000. Industry inspections continue with excellent support from affected companies. Our submission of the industry declarations to the OPCW and commencement of inspections have strengthened U.S. leadership in the organization as well as our ability to encourage other States Parties to make complete, accurate, and timely declarations.

Countries that refuse to join the CWC are increasingly isolated politically and denied access by the CWC to certain key chemicals from States Parties. The relevant treaty provisions are specifically designed to penalize countries that refuse to join the rest of the world in eliminating the threat of chemical weapons.

The United States agreed in 1994 to participate in an Ad Hoc Group to negotiate a Protocol to the 1972 BWC that would "enhance confidence in compliance." Negotiations continued during the reporting period. My Administration is in the late stages of a comprehensive review of U.S. policy toward the BWC protocol exercise.

The United States continues to be a leading participant in the 32-member Australia Group (AG) chemical and biological weapons (CBW) nonproliferation regime. The United States attended the most recent annual AG Plenary Session from October 2-5, 2000, during which the Group reaffirmed the members' continued collective belief in the AG's viability, importance and compatibility with the CWC and BWC. Members continue to agree that full adherence to the CWC and BWC by all governments will be the only way to achieve a permanent global ban on chemical and biological weapons and that all states adhering to these Conventions must take steps to ensure that their national activities support these goals. At

the 2000 Plenary, the Group welcomed its newest members, Cyprus and Turkey. The regime continued to focus on strengthening and refining AG export controls and sharing information to address the CBW threat, including from terrorism. The AG also reaffirmed its commitment to continue its active outreach program of briefings for non-AG countries, and to promote regional consultations on export controls and nonproliferation to further awareness and understanding of national policies in these areas. The AG discussed ways to be more proactive in stemming attacks on the AG in the CWC and BWC contexts.

During the last six months, we continued to closely examine intelligence and other information of trade in CBW-related material and technology that might be relevant to sanctions provisions under the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991. No new sanctions determinations were reached during this reporting period. The United States also continues to cooperate with its AG partners and other countries in stopping shipments of proliferation concern.

MISSILES FOR DELIVERY OF WEAPONS OF MASS DESTRUCTION

The United States continues to carefully control exports that could contribute to unmanned delivery systems for weapons of mass destruction, and to closely monitor activities of potential missile proliferation concern. We also continue to implement U.S. missile sanctions laws.

On November 21, 2000, the United States determined that Chinese entities engaged in transfers of missile-related equipment and technology to Iran and Pakistan are sanctionable under U.S. law. As mandated by U.S. law, the United States imposed MTCR Category I missile sanctions on the Iranian and Pakistani entities involved. The United States waived sanctions against the participating Chinese entities in consideration of China's November 21, 2000 commitment not to assist other countries in developing nuclear-capable ballistic missiles in any way and to put in place comprehensive export controls. However, this waiver does not apply to any sanctionable transfers that occur after November 21, 2000. We are continuing to monitor this situation closely and will press China for full implementation of its November 21 commitments.

In January 2001, pursuant to the Iran Nonproliferation Act of 2000, the United States imposed missile sanctions on a North Korean entity for its involvement in the transfer from North Korea to Iran of missile equipment and technology controlled by the MTCR Annex.

During this reporting period, the Missile Technology Control Regime (MTCR) Partners (members) continued to share information about proliferation problems with each other and with other potential supplier, consumer, and transshipment states. Partners also emphasized the need for implementing effective export control systems. This cooperation has resulted in the interdiction of missile-related materials intended for use in missile programs of concern. In addition, the Partners reached consensus to admit the Republic of Korea to membership in the MTCR, effective March 26, 2001. The United States strongly supported this decision and believes ROK membership will strengthen the Regime. The ROK has been

committed since 1995 to controlling missile-related exports consistent with the MTCR Guidelines and Annex, and has a demonstrated track record of implementing such controls. In addition, the ROK committed in January 2000 not to possess MTCR Category I offensive military missiles. With the admission of the ROK, MTCR membership now stands at 33.

As agreed at the October 2000 Helsinki MTCR Plenary, the MTCR Partners held a Reinforced Point of Contact (RPOC) meeting in Paris in March 2001 to discuss next steps on the draft International Code of Conduct Against Ballistic Missile Proliferation (ICOC), intended to become a new multilateral mechanism that would complement the MTCR and eventually include the participation of all interested countries, both MTCR and non-MTCR. The MTCR Partners agreed to continue their national and regional efforts to multilateralize the draft ICOC, including by Poland holding a round table meeting for several non-members in Warsaw in May, and to intensify their efforts to obtain non-Partner support for, and reaction to, the draft ICOC text. They also agreed to decide at the September 24–28 Ottawa MTCR Plenary whether and when to hold an international conference for the official launching of the ICOC.

In preparation for the Ottawa Plenary, the Partners also agreed to hold a special meeting for licensing and enforcement officers in conjunction with the Regime's annual Information Exchange. The United States strongly supports this decision. Having such a meeting will further strengthen the Partners' efforts to cooperate on stopping or impeding specific shipments of missile proliferation concern.

During this reporting period, the United States continued to work unilaterally and in coordination with its MTCR Partners to combat missile proliferation and to encourage non-members to export responsibly and to adhere to the MTCR Guidelines. Since the last report, the United States continued holding missile non-proliferation dialogues with China and raising with Indian and Pakistani leaders our continuing strong interest in this issue. In the course of normal diplomatic relations, we also have pursued such discussions with other countries in Central Europe, South Asia, and the Middle East.

Although regular discussions with Pakistan at the expert level have not proceeded since the Fall 1999 coup, we remain engaged at the diplomatic level and continue to address our nonproliferation concerns. On November 21, 2000, the United States Government imposed missile sanctions on the Pakistani Ministry of Defense and the Space and Upper Atmosphere Research Commission (SUPARCO) for their knowing engagement in missile proliferation activities with Chinese entities. We have indicated we are prepared to discuss with Pakistan the nonproliferation conditions under which a waiver might be warranted.

As noted in the previous report, former Secretary Albright met with Chairman Kim Jong-Il in Pyongyang October 23–24, 2000. They discussed the full range of U.S. concerns on missiles, including both the DPRK's indigenous missile programs and exports. They also explored Chairman Kim's idea of restraining DPRK missile capabilities in exchange for launches of DPRK satellites on for-

eign boosters. Following up on the Secretary's discussions, the United States and DPRK held the sixth round of missile talks in Kuala Lumpur November 1-3, 2000. The talks covered the full range of missile issues under consideration by the two countries and were useful in clarifying positions. However, significant issues remained to be resolved.

No further dialogue between the United States and DPRK has taken place since the November 2000 round of talks. My Administration is currently undertaking a thorough review of U.S. policy vis-à-vis the DPRK on this and other key issues related to the Korean Peninsula. My Administration will carefully consider its options, taking into account the views of key allies before deciding whether and how to proceed.

In May, a European Union delegation visited Pyongyang and met with DPRK leader Kim Jong-Il. During those meetings, Kim informed the delegation that he would extend North Korea's missile launch moratorium until 2003. (North Korean officials subsequently linked continuation of the moratorium to Bush Administration policy toward Pyongyang.) Kim also commented, however, that North Korea would continue to export missiles and related technology.

In response to Iranian efforts to acquire sensitive items from Russian entities for use in Iran's missile and nuclear development programs, the United States has pursued a high-level dialogue with Russia aimed at finding ways to work together to cut off the flow of sensitive goods to Iran's ballistic missile development and nuclear weapon programs. Russia's Government has created institutional foundations to implement a newly-enacted nonproliferation policy and passed laws to punish wrongdoers. It also has passed new export control legislation to tighten government control over sensitive technologies and continued working with the United States to strengthen export control practices at Russian aerospace firms.

In April 2000, the United States announced its intention to lift the administrative penalties imposed on the Russian entities Inor and Polyus in July 1998 for their missile-related cooperation with Iran. They were removed on November 17, 2000. However, penalties imposed in July 1998 against five other Russian entities and in January 1999 against three additional entities remain in effect.

Consistent with the Russian Government's April 2000 announcement of administrative action against the Rector of the Baltic State Technical University (BSTU) for his involvement in training Iranian specialists at BSTU, and following our own assessment, the United States also announced on April 24, 2000, plans to impose trade and administrative penalties on the Rector for his involvement with the Iranian missile program. However, the United States has not moved forward with these penalties as the Russian Government has since taken its own actions against the Rector. Specifically, the Russian Ministry of Education initiated an investigation of the Rector. We understand that this investigation resulted in administrative action against the Rector and cancellation of specialized courses for Iranian students at BSTU. (BSTU itself remains under U.S. administrative penalties.)

However, despite the Russian Government's nonproliferation and export control efforts, some Russian entities continued to cooperate with Iran's ballistic missile program and engaged in nuclear cooperation with Iran beyond the Bushehr Unit 1 nuclear power reactor project, which could further Iran's nuclear weapon aspirations. The United States has made clear to Russia our strong objection to these activities. My Administration is currently engaged in a review of U.S. nonproliferation policy toward Russia.

On November 17, 2000, the United States Government imposed missile sanctions on two Iranian entities, the Shahid Hemmat Industrial Group (SHIG) and the Sanam Industrial Group, for knowingly engaging in missile-related transfers. In addition, on November 21, 2000, the U.S. imposed missile sanctions on the Iranian Defense Industries Organization (DIO) and the Ministry of Defense and Armed Forces Logistics (MODAFEL) for knowingly engaging in missile proliferation activities with Chinese entities.

VALUE OF NONPROLIFERATION EXPORT CONTROLS

United States national export controls, both those implemented pursuant to multilateral nonproliferation regimes and those implemented unilaterally, play an important part in impeding the proliferation of WMD and missiles. (As used here, "export controls" refer to requirements for case-by-case review of certain exports, or limitations on exports of particular items of proliferation concern to certain destinations, rather than broad embargoes or economic sanctions that also affect trade.) As noted in this report, however, export controls are only one of a number of tools the United States uses to achieve its nonproliferation objectives. Global nonproliferation treaties and norms, multilateral nonproliferation regimes, interdictions of shipments of proliferation concern, sanctions, export control assistance, redirection and elimination efforts, and robust U.S. military, intelligence, and diplomatic capabilities all work in conjunction with export controls as part of our overall nonproliferation strategy.

Export controls are a critical part of nonproliferation because every emerging WMD/missile program seeks equipment and technology from other countries. Proliferators look to other sources because needed items are unavailable within their country, because indigenously produced items are of substandard quality or insufficient quantity, and/or because imported items can be obtained more quickly and cheaply than domestically produced ones. It is important to note that proliferators seek for their WMD and missile programs both items on multilateral lists (like gyroscopes controlled on the MTCR Annex and nerve gas precursors on the Australia Group list) and unlisted items (like lower-level machine tools and very basic chemicals). In addition, many of the items of interest to proliferators are inherently dual-use. For example, key precursors and technologies used in the production of fertilizers or pesticides also can be used to make chemical weapons; bio-production technology can be used to produce biological weapons.

The most obvious value of export controls is in impeding or denying proliferators access to key pieces of equipment or technology for use in their WMD/missile programs. In large part, U.S. national export controls, and similar controls of our partners in the Aus-

ustralia Group, Missile Technology Control Regime, and Nuclear Suppliers Group, have denied proliferators access to the largest sources of the best equipment and technology. Proliferators have mostly been forced to seek less capable items from non-regime suppliers. Moreover, in many instances, U.S. and regime controls and associated efforts have forced proliferators to engage in complex clandestine procurements even from non-member suppliers, taking time and money away from WMD/missile programs.

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

The United States maintains a global program, funded by the Nonproliferation, Antiterrorism, Demining and Related Activities (NADR) account and Freedom Support Act (FSA) funds for the New Independent States, to assist other countries' efforts to strengthen their export control systems. Assistance world-wide is focused on helping weapons-source countries and countries along potential smuggling routes to develop effective export control regimes, including effective capabilities to control illicit weapons trafficking across their borders; to establish the necessary legal and regulatory basis for effective export controls; to improve licensing procedures and practices; to coordinate, train, and equip export enforcement agencies, including customs agents and border security and enforcement authorities; to develop and install automated information systems to licensing and enforcement; and to foster effective interaction between government and industry on export controls. The program has placed over 20 advisors in countries around the world to coordinate export control/border security activities.

United States export controls, especially "catch-all" controls, also make important political and moral contributions to the non-proliferation effort. They uphold the broad legal obligations the United States has undertaken in the Nuclear Non-proliferation Treaty (Article I), Biological Weapons Convention (Article III), and Chemical Weapons Convention (Article I) not to assist anyone in proscribed WMD activities. They endeavor to assure there are no U.S. "fingerprints" on WMD and missiles that threaten U.S. citizens and territory and our forces, friends, and interests overseas. They place the United States squarely and unambiguously against WMD/missile proliferation, even against the prospect of inadvertent proliferation from the United States itself.

Finally, export controls play an important role in enabling and enhancing legitimate trade. They provide a means to permit dual-

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

THREAT REDUCTION

The potential for proliferation of WMD and delivery system expertise has increased in part due to continued economic and political instability in Russia and other Newly Independent States. The human dimension proliferation continues to present a serious threat and is addressed through programs that support the transition of former Soviet weapons scientists to civilian research and technology development activities. These programs currently are under review by my Administration.

EXPENSES

Pursuant to Section 401(c) of the National Emergencies Act (50 U.S.C. 1641 (c)), I report that there were no specific expenses directly attributable to the exercise of authorities conferred by the declaration of the national emergency in Executive Order 12938, as amended, during the period from November 12, 2000 through May 15, 2001.

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