104th Congress, 2d Session – – – – – – – – – – – – – House Document 104–210

DEVELOPMENTS CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO THE PROLIFERATION OF NUCLEAR, BIOLOGICAL, AND CHEMICAL WEAPONS ("WEAPONS OF MASS DESTRUCTION") AND OF THE MEANS OF DELIVERING SUCH WEAPONS

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A REPORT ON THE NATIONAL EMERGENCY DECLARED BY EXECUTIVE ORDER NO. 12938 OF NOVEMBER 14, 1994, IN RESPONSE TO THE THREAT POSED BY THE PROLIFERATION OF NUCLEAR, BIOLOGICAL, AND CHEMICAL WEAPONS ("WEAPONS OF MASS DESTRUCTION") AND OF THE MEANS OF DELIVERING SUCH WEAPONS, PURSUANT TO 50 U.S.C. 1703(c) and 50 U.S.C. 1641(c)

MAY 14, 1996.—Message and accompanying papers referred to the Committee on International Relations and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

29–011 WASHINGTON : 1996

To the Congress of the United States:

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)), I transmit herewith a report on the national emergency declared by Executive Order No. 12938 of November 14, 1994, in response to the threat posed by the proliferation of nuclear, biological, and chemical weapons ("weapons of mass destruction") and of the means of delivering such weapons.

WILLIAM J. CLINTON.

The White House, *May 14, 1996.*

On November 14, 1994, in light of the dangers of the proliferation of nuclear, biological, and chemical weapons ("weapons of mass destruction") and of the means of delivering such weapons, I issued Executive Order No. 12938, and declared a national emergency under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.). Because I concluded that the proliferation of weapons of mass destruction continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, on November 8, 1995, I extended the national emergency declared in Executive Order No. 12938.

The following report is made pursuant to Section 204 of the International Emergency Economic Powers Act (50 U.S.C. 1703) and Section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), regarding activities taken and money spent pursuant to the emergency declaration. Additional information on nuclear, missile, and/or chemical and biological weapons (CBW) nonproliferation efforts is contained in the most recent annual Report on the Proliferation of Missiles and Essential Components of Nuclear, Biological and Chemical Weapons, provided to Congress pursuant to Section 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190), also known as the "Nonproliferation Report," and the most recent annual report provided to the Congress pursuant to Section 308 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (Public Law 102-182).

During the last six months, the three export control regulations issued under the Enhanced Proliferation Control Initiative (EPCI) remained fully in force and continue to be applied 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.

By mid-April 1996, 50 of the 160 signatory countries had ratified 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). The CWC will enter into force six months after it has been ratified by 65 countries. As I noted in my State of the Union address in January of this year, the CWC and its associated regime of declarations and inspections is vital to the security of the United States and to that of our friends and allies around the world. The CWC is key to stopping the development, production, stockpiling, or use of chemical weapons, which are significant

threats, whether by states or by terrorist groups. I was pleased that the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106), which I signed into law on February 10, 1996, contained a provision recognizing the importance of the CWC and expressing the sense of Congress that the United States should promptly ratify the Convention. Secretaries Christopher and Perry and General Clark reaffirmed my strong support for prompt CWC ratification in their testimony before the Senate Foreign Relations Committee on March 28, 1996. United States leadership becomes more important as we near entry into force of this vital treaty.

In April 1996, the CWC was favorably reported out of the Senate Foreign Relations Committee by a strong bipartisan majority. I urge the Senate to give its advice and consent to the Convention this spring. Prompt ratification of the CWC will demonstrate clearly to rogue states or potential terrorists that the United States is fully committed to joining with the international community to eliminate chemical weapons worldwide.

In the meantime, the United States continues to be an active member of the CWC Preparatory Commission (PrepCom) in The Hague. Out of this work will come the technical and administrative procedures for implementing the CWC and the strong organization which will ensure compliance once the CWC enters into force.

The United States is also leading the international effort to end the threat of biological weapons. We actively participate in the Ad Hoc Group drafting a legally binding instrument to strengthen the effectiveness and improve the implementation of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (The Biological Weapons Convention or BWC). The Ad Hoc Group was mandated by the September 1994 BWC Special Conference. The Group held three meetings in 1995 and has held one so far in 1996. In addition, our delegation played an active part in the April 9-10 Preparatory Committee meeting to prepare for the late November Fourth BWC Review Conference. Completion of a new BWC protocol remains a top U.S. nonproliferation priority.

The United States continues to be a leader in the 29-member Australia Group (AG), a chemical and biological weapons nonproliferation regime. As noted in my previous report, at its October 16-19 consultations, the Group agreed to a United States proposal to ensure AG export controls and information-sharing adequately address the threat of CBW terrorism, a threat that became a deadly reality with the 1995 Tokyo subway nerve gas incident. This United States initiative was the AG's first policy-level action on CBW terrorism. AG members also agreed

to several amendments strengthening the AG's harmonized export controls on materials and equipment relevant to biological weapons, taking into account new developments since the last review of the biological weapons lists and, in particular, new insights into Iraq's BW activities.

The Group also reaffirmed the members' collective belief that full adherence to the CWC and the BWC will be the only way to achieve a permanent global elimination of CBW, and that all states adhering to these Conventions have an obligation to ensure that their national activities support this goal.

Australia Group participants continue to ensure that all relevant national measures promote the object and purposes of the BWC and CWC, and will be fully consistent with the CWC upon its entry into force. The AG believes that national export licensing policies on chemical weapons-related items fulfill the obligation established under Article I of the CWC that States Parties never assist, in any way, the acquisition of chemical weapons. Inasmuch as these measures are focused solely on preventing activities banned under the CWC, they are consistent with the undertaking in Article XI of the CWC to facilitate the fullest possible exchange of chemical materials and related information for purposes not prohibited by the CWC.

In October, the AG also agreed to continue its active 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.

Since my last report, the United States imposed chemical weapons proliferation sanctions on one individual. On November 17, 1995, sanctions were imposed under the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 on Russian citizen Anatoliy Kuntsevich for knowingly providing material assistance to a foreign chemical weapons program.

The United States carefully controlled exports that could contribute to unmanned delivery systems for weapons of mass destruction, exercising restraint in considering all such proposed transfers consistent with the Guidelines of the Missile Technology Control Regime (MTCR). MTCR Partners continued to share information about proliferation problems with each other and with other possible 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.

The United States worked unilaterally and in coordination with its MTCR Partners in multilateral efforts to combat missile proliferation by non-members, to encourage non-members to export responsibly, and to adhere to the MTCR Guidelines. Since my last report, the Republic of Korea (South Korea) has unilaterally adhered to the MTCR Guidelines by establishing laws and regulations that permit it to control exports of missile-related equipment and technology consistent with MTCR standards.

In April 1996, we held talks with the Democratic Peoples' Republic of Korea (North Korea) to explain United States and MTCR missile nonproliferation goals and objectives. We also have maintained a dialogue with Ukraine on nonproliferation issues and MTCR membership, and have pursued missile nonproliferation issues with China.

Since the October 1995 MTCR Plenary Meeting in Bonn, the United States has worked closely with the other 27 MTCR Partners to implement the Regime's decision to increase its efforts to deal more effectively with missile-related aspects of regional tensions, to improve information sharing and strengthen Partner cooperation in impeding transfers of potential missile proliferation concern, and to address the proliferation risks posed by transshipment. In particular, the United States is taking the lead in planning an MTCR-sponsored seminar on transshipment issues, where MTCR Partners with experience in applying MTCR controls in busy ports can work with key non-Partner transshippers to consider ways to reduce the proliferation risk posed by transshipment without disrupting legitimate trade.

The United States also is leading preparations for the MTCR's Reinforced Point of Contact (POC) Meeting on Regional Issues, which will be held in Paris, June 13-14, 1996. As agreed at the Bonn Plenary, the MTCR Partners will use this meeting to undertake an in-depth discussion of regional missile proliferation concerns and to develop action plans to address the specific concerns raised in each region of concern.

The United States has continued to pursue my Administration's nuclear nonproliferation goals with success. Last May Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) agreed by consensus at the NPT Review and Extension Conference to extend the NPT indefinitely and without conditions. Since the conference, more nations have acceded to the treaty. There now are more than 180 parties, making the NPT the most widely-subscribed treaty in history.

On April 11, the United States, France, the United Kingdom and China signed the two protocols to the African Nuclear Weapons Free Zone. Protocol I obligates the United States not to use or threaten to use nuclear weapons against a treaty party. Protocol II contains a pledge not to test or assist in the testing of nuclear explosive devices anywhere within the zone.

The Nuclear Suppliers Group (NSG) continues its efforts to improve member states' export policies and controls. Nuclear Suppliers Group members have agreed to apply technology controls to all items on the nuclear trigger list and to adopt the principle that the intent of the NSG Guidelines should not be undermined by the export of parts of trigger list and dual-use items without appropriate controls. In 1995, the NSG agreed to over 30 changes to update and clarify the list of controlled items in the Nuclear-Related Dual-Use Annex. The NSG also pursued efforts to enhance information sharing among members by establishment of a permanent Joint Information Exchange group and by moving toward adoption of a United States Department of Energy-supplied computerized automated information exchange system which is currently being tested by most of the members.

The increasing number of countries capable of exporting nuclear commodities and technology is a major challenge for the NSG. The ultimate goal of the NSG is to obtain the agreement of all suppliers, including nations not members of the regime, to control nuclear exports in accordance with the NSG guidelines. Members continued contacts with Belarus, Brazil, China, Kazakstan, Lithuania, the Republic of Korea (ROK), and Ukraine regarding NSG activities. As a result of such contacts, Brazil, the ROK and Ukraine have been accepted as members of the NSG and attended the NSG Plenary meeting in Buenos Aires in April 1996. The United States maintains bilateral contacts with emerging suppliers, including the New Independent States of the former Soviet Union, to encourage early adherence to NSG guidelines.

Pursuant to Section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), I report that there were no expenses directly attributable to the exercise of authorities conferred by the declaration of the national emergency in Executive Order 12938 during the period from November 14, 1995, through May 14, 1996.

O