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A 6-MONTH REPORT ON THE NATIONAL EMERGENCY
DECLARED BY EXECUTIVE ORDER 12938

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A 6-MONTH REPORT ON THE NATIONAL EMERGENCY DECLARED BY EXECUTIVE ORDER 12938 OF NOVEMBER 14, 1994, IN RESPONSE TO THE THREAT POSED BY THE PROLIFERATION OF NUCLEAR, BIOLOGICAL, AND CHEMICAL WEAPONS AND OF THE MEANS OF DELIVERING SUCH WEAPONS, PURSUANT TO 50 U.S.C. 1703(c)



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To the Congress of the United States:

As required by section 204 of the International Emergency Economics Powers Act (50 U.S.C. 1703(c)) and section 401(c) of the National Emergencies Act (50 U.S.C. 1641(c)), I transmit herewith a 6-month report on the national emergency declared by Executive Order 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, *July 13, 1999.*

Report to the Congress on
the National Emergency Concerning
Weapons of Mass Destruction

On November 14, 1994, in light of the dangers of the proliferation of nuclear, biological and chemical weapons ("weapons of mass destruction" -- WMD) 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.*). 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 I publish in the Federal Register and transmit to the Congress a notice of its continuation. Because the proliferation of weapons of mass destruction and their means of delivery continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, on November 12, 1998, 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), also known as the "CBW Report."

On July 28, 1998, in E.O. 13094, I amended section 4 of E.O. 12938 so that the U.S. Government could more effectively respond to the worldwide threat of weapons of mass destruction proliferation activities. The amendment to section 4 strengthens E.O. 12938 in several significant ways. The amendment broadens the type of proliferation activity that subjects 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 U.S. Government assistance to foreign persons, and the prohibition of imports into the United States and U.S. Government procurement.

Nuclear Weapons

In May 1998, India and Pakistan each conducted a series of nuclear tests. World reaction included nearly universal condemnation across a broad range of international fora and multilateral support for a broad range of sanctions, including new restrictions on lending by international financial institutions unrelated to basic human needs and on aid from the G-8 and other countries.

Since the mandatory imposition of U.S. statutory sanctions, we have worked unilaterally, with other P-5 and G-8 members, and through the U.N., to dissuade India and Pakistan from taking further steps toward developing nuclear weapons. We have urged them to join multilateral arms control efforts, to prevent a regional arms race and build confidence by practicing restraint, and to resume efforts to resolve their differences through dialogue. The P-5, G-8, and U.N. Security Council have called on India and Pakistan to take a broad range of concrete actions. The United States has focused most intensely on several objectives which can be met over the short and medium term: an end to nuclear testing and prompt, unconditional adherence to the Comprehensive Nuclear Test Ban Treaty (CTBT); a moratorium on production of fissile material for nuclear weapons and other explosive devices, and engagement in productive negotiations on a fissile material cut-off treaty (FMCT); restraint in development and deployment of nuclear-capable missiles and aircraft; and adoption of controls meeting international standards on exports of sensitive materials and technology.

Against this backdrop of international pressure on India and Pakistan, high-level U.S. dialogues with Indian and Pakistani officials have yielded some progress. Both governments, having already declared testing moratoria, indicated they are prepared to adhere to the CTBT by September 1999 under certain conditions. These declarations were made prior to the end of Prime Minister Vajpayee's Indian government in April 1999. Both India and Pakistan withdrew their opposition to negotiations on an FMCT in Geneva at the end of the 1998 Conference on Disarmament session. They have also pledged, in the last two rounds of discussions, to

institute strict control of sensitive exports that meet internationally accepted standards. In addition, they have resumed their bilateral dialogue on outstanding disputes, including Kashmir, at the Foreign Secretary level. We will continue discussions with both governments at the senior and expert levels, and our diplomatic efforts in concert with the P-5, G-8, and in international fora.

The Democratic People's Republic of Korea (DPRK or North Korea) continues to maintain a freeze on its nuclear facilities consistent with the 1994 U.S.-DPRK Agreed Framework, which calls for the immediate freezing and eventual dismantling of the DPRK's graphite-moderated reactors and reprocessing plant at Yongbyon and Taechon. The United States has raised its concerns with the DPRK about a suspect underground site under construction, possibly intended to support nuclear activities contrary to the Agreed Framework. In March 1999, the United States reached agreement with the DPRK for visits by a team of U.S. experts to the facility.

The Framework requires the DPRK to come into full compliance with its NPT and IAEA obligations as a part of a process that also includes the supply of two light water reactors to North Korea. U.S. experts remain on-site in North Korea working to complete clean-up operations after largely finishing the canning of spent fuel from the North's 5-megawatt nuclear reactor.

So far, 152 countries have signed and 34 have ratified the CTBT. During 1998, CTBT signatories conducted numerous meetings of the Preparatory Commission (PrepCom) in Vienna, seeking to promote rapid completion of the International Monitoring System (IMS) established by the Treaty.

On September 22, 1997, I transmitted the CTBT to the Senate, requesting prompt advice and consent to ratification. The CTBT will serve several United States national security interests by prohibiting all nuclear explosions. It will constrain the development and qualitative improvement of nuclear weapons; end the development of advanced new types; contribute to the prevention of nuclear proliferation and the process of nuclear disarmament; and strengthen international peace and security. The CTBT marks a historic milestone in our drive to reduce the nuclear threat and to build a safer world.

With 35 member states, the Nuclear Suppliers Group (NSG) is a widely accepted, mature, and effective export-control arrangement. China is the only major nuclear supplier which is not a member of the NSG, primarily because it has not accepted the NSG policy of requiring full-scope safeguards as a condition for supply of nuclear trigger list items to non-nuclear weapon

states. However, China has taken major steps toward improving its export control system by adopting language identical to the NSG trigger list, becoming a full-member of the Zangger Committee, and by promulgating in 1998 nuclear-related dual-use export control regulations.

The NSG is considering requests for membership from Belarus, Cyprus, Kazakhstan and Turkey; of these four potential candidate countries, only Turkey has taken all the necessary steps for acceptance as a member. The NSG continues to consider whether adherence without membership, rather than membership, is more appropriate for countries which are not suppliers but transit states for nuclear transactions. The Chairman, in coordination with other members, will continue contacts with all candidate countries. The ultimate goal of the NSG continues to be to obtain agreement of all supplier and transit states, including non-NSG members, to control nuclear and nuclear-related exports in accordance with the NSG Guidelines.

During the last six months, we reviewed intelligence and other reports of trade in nuclear-related material and technology that might be relevant to nuclear-related sanctions provisions in the Iran-Iraq Arms Non-Proliferation Act of 1992, as amended and in the Nuclear Proliferation Prevention Act of 1994. No statutory sanctions determinations were reached during this reporting period. The administrative measure imposed against three Russian entities for their nuclear- and missile-related cooperation with Iran are discussed in the Missiles section below.

Chemical and Biological Weapons

The export control regulations issued under the Enhanced Proliferation Control Initiative (EPCI) remain fully in force and continue to be applied by the Department of Commerce 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 signatories as original States Parties. The United States was among their number, having deposited its instrument of ratification on April 25. Russia ratified the CWC on November 5, 1997, and became a State Party on December 5, 1997. To date, 121 countries (including China, Iran, India, Pakistan, and Ukraine) have become States Parties.

The implementing body for the CWC -- the Organization for the Prohibition of Chemical Weapons (OPCW) -- was established at entry-into-force (EIF) of the Convention on April 29, 1997. The OPCW, located in The Hague, has primary responsibility (along with States Parties) for implementing the CWC. It consists of the Conference of 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 nearly 300 inspections in some 26 countries. To date, nearly 100 inspections have been conducted at military facilities in the United States. The OPCW maintains a permanent inspector presence at operational U.S. CW destruction facilities in Utah, Nevada, and Johnston Island.

The United States is determined to seek full implementation of the concrete measures in the CWC designed to raise the costs and risks for any state or terrorist attempting to engage in chemical weapons-related activities. The CWC's declaration requirements improve our knowledge of possible chemical weapons activities. Its inspection provisions provide for access to declared and 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 in October 1998, as part of the Omnibus Consolidated and Emergency Supplemental Appropriation Act for Fiscal Year 1999 (P.L. 105-277). Accordingly, the Administration is working to publish the appropriate executive order and regulations regarding industrial declarations and inspections of industrial facilities. Submission of these declarations to the OPCW will begin to bring the U.S. into full compliance with the CWC. U.S. non-compliance to date has, among other things, undermined 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 will be politically isolated and prohibited under the CWC from trading with States Parties in certain key chemicals. The relevant treaty provision is specifically designed to penalize countries that refuse to join the rest of the world in eliminating the threat of chemical weapons.

The United States also continues to play a leading role in the international effort to reduce the threat from biological weapons (BW). We are an active participant in the Ad Hoc Group (AHG) of States Parties striving to complete a legally binding protocol to strengthen and enhance compliance with the 1972 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). This Ad Hoc Group was mandated by the September 1994 BWC Special Conference. The Fourth BWC Review Conference, held in November/December 1996, urged the AHG to complete the protocol as soon as possible but not later than the next Review Conference to be held in 2001. Work is progressing on a draft rolling text through insertion of national views and clarification of existing text. Five AHG negotiating sessions are scheduled for 1999. The United States is working toward completion of the substance of a strong Protocol by the end of 1999.

On January 19, 1998, during the State of the Union Address, I announced that the United States would take a leading role in the effort to erect stronger international barriers against the proliferation and use of BW by strengthening the BWC with a new international system to detect and deter cheating. The United States is working closely with U.S. industry representatives to obtain technical input relevant to the development of U.S. negotiating positions and then to reach international agreement on data declarations, non-challenge visits and challenge investigations.

The United States continued to be a leading participant in the 30-member Australia Group (AG) CBW nonproliferation regime. The United States attended the most recent annual AG Plenary Session from October 9-15, 1998, during which the Group reaffirmed the members' continued collective belief in the Group's viability, importance and compatibility with the CWC and BWC. It was further agreed that full adherence to the CWC and BWC 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 1998 Plenary, the Group continued to focus on strengthening AG export controls and share information to address the threat of CBW terrorism. AG participants shared information on legal and regulatory efforts each member has taken to counter the terrorist threat. 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.

During the last six months, we continued to examine closely intelligence and other reports 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 carefully controlled exports that could contribute to unmanned delivery systems for weapons of mass destruction and closely monitored activities of potential missile proliferation concern. We also continued to implement U.S. missile sanctions law. In March 1999, we imposed missile sanctions against three Middle Eastern entities for transfers involving Category II MTCR Annex items. Category II missile sanctions imposed against two North Korean entities in August 1997 also remain in effect, as do Category I missile sanctions imposed in April 1998 against North Korean and Pakistani entities for the transfer from North Korea to Pakistan of equipment and technology related to the Ghauri missile.

During this reporting period, MTCR Partners 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.

The United States worked 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 my last report, we have continued our missile nonproliferation dialogues with China, India, the Republic of Korea (ROK), North Korea (DPRK), and Pakistan. In the course of normal diplomatic relations, we also have pursued such discussions with other countries in Central Europe and the Middle East.

In March 1999, the United States and the DPRK held a fourth round of missile talks aimed at obtaining DPRK commitments to restrain its missile practices. The talks were detailed and substantive, and covered the full range of missile proliferation issues. The United States expressed serious concerns about North Korea's missile-related exports and its indigenous missile activities, including missile production, deployment, and flight-testing. We continued to press for tight constraints on these

activities, and also made clear that further launches of long-range missiles or further exports of such missiles or their related technology would have very negative consequences for efforts to improve U.S.-North Korean relations.

In response to reports of continuing Iranian efforts to acquire sensitive items from Russian entities for use in Iran's missile and nuclear development programs, the United States continued its high-level dialogue with Russia. This dialogue is developing ways the United States and Russia can work together to cut off the flow of sensitive goods to Iran. Despite the Russian government's nonproliferation and export control efforts, Russian entities continued to cooperate with Iran's ballistic missile program during this reporting period, and to engage in nuclear cooperation with Iran beyond the Bushehr reactor project. There was some improvement in Russia's efforts to crack down on such activities during 1998. However, while Russia continues to try to implement some export control measures, the flow to Iran continues. We continue to press Russia to improve its record.

In January 1999, we imposed administrative measures against three Russian entities for their nuclear- and missile-related cooperation with Iran. Specifically, the United States has banned exports to and imports from these entities. We also have banned U.S. Government procurement from and assistance to them. (Last July, we took the same action against seven Russian entities involved with Iran's ballistic missile program.) In addition, we are continuing our longstanding, broad, and intensive efforts with the Russian government aimed at stopping proliferation. As part of this approach, the United States will be chairing in June the first meeting of the joint U.S.-Russia Missile Sub-group of our bilateral Export Control Working Group. This Sub-group will focus, among other things, on improving risk assessment in Russia's missile-related licensing decisions.

Threat Reduction

The proliferation of WMD and delivery system expertise also poses a significant threat to national and international security. A major concern is that the potential for proliferation is increased due to the economic crisis in Russia and other NIS. The Administration gives high priority to controlling the human dimension of proliferation through programs that support the transition of former Soviet weapons scientists to civilian research and technology development activities. I have proposed an additional \$4.5 billion for programs embodied in the Expanded Threat Reduction Initiative (ETRI) that would support activities in four areas: nuclear security; non-nuclear WMD; science and technology nonproliferation; and military relocation, stabilization and other security cooperation programs. Congressional support for this initiative would enable

the engagement of a broad range of programs under the Departments of State, Energy and Defense.

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 during the period from November 1, 1998 through May 14, 1999.