

**SA 3039.** Mr. MARKEY submitted an amendment intended to be proposed by him to the bill S. 4638, to authorize appropriations for fiscal year 2025 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title XII, add the following:

**SECTION 1291. COUNTERING SAUDI ARABIA'S PURSUIT OF WEAPONS OF MASS DESTRUCTION.**

(a) **SHORT TITLES.**—This section may be cited as the “Stopping Activities Underpinning Development In Weapons of Mass Destruction Act” or the “SAUDI WMD Act”.

(b) **FINDINGS.**—Congress makes the following findings:

(1) The People's Republic of China (referred to in this section as “China”), became a full-participant of the Nuclear Suppliers Group in 2004, committing it to apply a strong presumption of denial in exporting nuclear-related items that a foreign country could divert to a nuclear weapons program.

(2) China also committed to the United States, in November 2000, to abide by the foundational principles of the 1987 Missile Technology Control Regime (referred to in this section as “MTCR”) to not “assist, in any way, any country in the development of ballistic missiles that can be used to deliver nuclear weapons (i.e., missiles capable of delivering a payload of at least 500 kilograms to a distance of at least 300 kilometers)”.

(3) In the 1980s, China secretly sold the Kingdom of Saudi Arabia (referred to in this section as “Saudi Arabia”) conventionally armed DF-3A ballistic missiles, and in 2007, reportedly sold Saudi Arabia dual-use capable DF-21 medium-range ballistic missiles of a 300 kilometer, 500 kilogram range and payload threshold which should have triggered a denial of sale under the MTCR.

(4) The 2020 Department of State Report on the Adherence to and Compliance with Arms Control, Nonproliferation, and Disarmament Agreements and Commitments found that China “continued to supply MTCR-controlled goods to missile programs of proliferation concern in 2019” and that the United States imposed sanctions on nine Chinese entities for covered missile transfers to Iran.

(5) A June 5, 2019, press report indicated that China allegedly provided assistance to Saudi Arabia in the development of a ballistic missile facility, which if confirmed, would violate the purpose of the MTCR and run contrary to the longstanding United States policy priority to prevent weapons of mass destruction proliferation in the Middle East.

(6) The Arms Export and Control Act of 1976 (Public Law 93-329) requires the President to sanction any foreign person or government who knowingly “exports, transfers, or otherwise engages in the trade of any MTCR equipment or technology” to a country that does not adhere to the MTCR.

(7) China concluded 2 nuclear cooperation agreements with Saudi Arabia in 2012 and 2017, respectively, which may facilitate China's bid to build 2 reactors in Saudi Arabia to generate 2.9 Gigawatt-electric (GWe) of electricity.

(8) On August 4, 2020, a press report revealed the alleged existence of a previously undisclosed uranium yellowcake extraction facility in Saudi Arabia allegedly constructed with the assistance of China, which if confirmed, would indicate significant

progress by Saudi Arabia in developing the early stages of the nuclear fuel cycle that precede uranium enrichment.

(9) Saudi Arabia's outdated Small Quantities Protocol and its lack of an in force Additional Protocol to its International Atomic Energy Agency (IAEA) Comprehensive Safeguards Agreement severely curtails IAEA inspections, which has led the Agency to call upon Saudi Arabia to either rescind or update its Small Quantities Protocol.

(10) On January 19, 2021, in response to a question about Saudi Arabia's reported ballistic missile cooperation with China, Incoming Secretary of State Antony J. Blinken stated that “we want to make sure that to the best of our ability all of our partners and allies are living up to their obligations under various nonproliferation and arms control agreements and, certainly, in the case of Saudi Arabia that is something we will want to look at”.

(11) On March 15, 2018, the Crown Prince of Saudi Arabia, Mohammad bin-Salman, stated that “if Iran developed a nuclear bomb, we would follow suit as soon as possible,” raising questions about whether a Saudi Arabian nuclear program would remain exclusively peaceful, particularly in the absence of robust international IAEA safeguards.

(12) An August 9, 2019, study by the United Nations High Commissioner for Human Rights found that the Saudi Arabia-led military coalition airstrikes in Yemen and its restrictions on the flow of humanitarian assistance to the country, both of which have disproportionately impacted civilians, may be violations of international humanitarian law.

(c) **DEFINITIONS.**—In this section:

(1) **APPROPRIATE COMMITTEES OF CONGRESS.**—The term “appropriate committees of Congress” means—

(A) the Select Committee on Intelligence of the Senate;

(B) the Committee on Foreign Relations of the Senate;

(C) the Permanent Select Committee on Intelligence of the House of Representatives; and

(D) the Committee on Foreign Affairs of the House of Representatives.

(2) **FOREIGN PERSON; PERSON.**—The terms “foreign person” and “person” mean—

(A) a natural person that is an alien;

(B) a corporation, business association, partnership, society, trust, or any other non-governmental entity, organization, or group, that is organized under the laws of a foreign country or has its principal place of business in a foreign country;

(C) any foreign governmental entity operating as a business enterprise; and

(D) any successor, subunit, or subsidiary of any entity described in subparagraph (B) or (C).

(3) **MIDDLE EAST AND NORTH AFRICA.**—The term “Middle East and North Africa” means those countries that are included in the Area of Responsibility of the Assistant Secretary of State for Near Eastern Affairs.

(d) **DETERMINATION OF POSSIBLE MTCR TRANSFERS TO SAUDI ARABIA.**—

(1) **MTCR TRANSFERS.**—Not later than 30 days after the date of the enactment of this Act, the President shall submit to the appropriate committees of Congress a written determination, and any documentation to support that determination detailing—

(A) whether any foreign person knowingly exported, transferred, or engaged in trade of any item designated under Category I of the MTCR Annex item with Saudi Arabia during the previous 3 fiscal years; and

(B) the sanctions the President has imposed or intends to impose pursuant to section 11B(b) of the Export Administration Act of 1979 (50 U.S.C. 4612(b)) against any foreign

person who knowingly engaged in the export, transfer, or trade of that item or items.

(2) **WAIVER.**—Notwithstanding any provision of paragraphs (3) through (7) of section 11(B)(b) of the Export Administration Act of 1979 (50 U.S.C. 4612(b)), the President may only waive the application of sanctions under such section with respect to Saudi Arabia if that country is verifiably determined to no longer possess an item designated under Category I of the MTCR Annex received during the previous 3 fiscal years.

(3) **FORM OF REPORT.**—The determination required under paragraph (1) shall be unclassified and include a classified annex.

(e) **PROHIBITION ON UNITED STATES ARMS SALES TO SAUDI ARABIA IF IT IMPORTS NUCLEAR TECHNOLOGY WITHOUT SAFEGUARDS.**—

(1) **IN GENERAL.**—The United States shall not sell, transfer, or authorize licenses for export of any item designated under Category III, IV, VII, or VIII on the United States Munitions List pursuant to section 38(a)(1) of the Arms Export Control Act (22 U.S.C. 2778(a)(1)) to Saudi Arabia, other than ground-based missile defense systems, if Saudi Arabia has, during any of the previous 3 fiscal years—

(A) knowingly imported any item classified as “plants for the separation of isotopes of uranium” or “plants for the reprocessing of irradiated nuclear reactor fuel elements” under Part 110 of the Nuclear Regulatory Commission export licensing authority; or

(B) engaged in nuclear cooperation related to the construction of any nuclear-related fuel cycle facility or activity that has not been notified to the IAEA and would be subject to complementary access if an Additional Protocol was in force.

(2) **WAIVER.**—The Secretary of State may waive the prohibition under paragraph (1) with respect to a foreign country if the Secretary submits to the appropriate committees of Congress a written certification that contains a determination, and any relevant documentation on which the determination is based, that Saudi Arabia—

(A) has brought into force an Additional Protocol to the IAEA Comprehensive Safeguards Agreement based on the model described in IAEA INFCIRC/540;

(B) has concluded a civilian nuclear cooperation agreement with the United States under section 123 of the Atomic Energy Act of 1954 (42 U.S.C. 2153) or another supplier that prohibits the enrichment of uranium or separation of plutonium on its own territory; and

(C) has rescinded its Small Quantities Protocol and is not found by the IAEA Board of Governors to be in noncompliance with its Comprehensive Safeguards Agreement.

(3) **RULE OF CONSTRUCTION.**—Nothing in this section may be construed as superseding the obligation of the President under section 502B(a)(2) or section 620I(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(2), 22 U.S.C. 2378–1(a)), respectively, to not furnish security assistance to Saudi Arabia or any country if the Government of Saudi Arabia—

(A) engages in a consistent pattern of gross violations of internationally recognized human rights; or

(B) prohibits or otherwise restricts, directly or indirectly, the transport or delivery of United States humanitarian assistance.

(f) **MIDDLE EAST NONPROLIFERATION STRATEGY.**—

(1) **IN GENERAL.**—Beginning with the first report published after the date of the enactment of this Act, the Secretary of State and the Secretary of Energy, in consultation with the Director of National Intelligence, shall provide the appropriate committees of Congress, as an appendix to the Report on the Adherence to and Compliance with Arms

Control, Nonproliferation, and Disarmament Agreements and Commitments, a report on MTCR compliance and a United States strategy to prevent the spread of nuclear weapons and missiles in the Middle East.

(2) **ELEMENTS.**—The report required under paragraph (1) shall include the following elements:

(A) An assessment of China's compliance, during the previous fiscal year, with its November 2000 commitment to abide by the MTCR and United States diplomatic efforts to address noncompliance.

(B) A description of every foreign person that, during the previous fiscal year, engaged in the export, transfer, or trade of MTCR items to a country that is a non-MTCR adherent, and a description of the sanctions the President imposed pursuant to section 11B(b) of the Export Administration Act of 1979 (50 U.S.C. 4612(b)).

(C) A detailed strategy to prevent the proliferation of ballistic missile and sensitive nuclear technology in the Middle East and North Africa from China and other foreign countries, including the following elements:

(i) An assessment of the proliferation risks associated with concluding or renewing a civilian nuclear cooperation "123" agreement with any country in the Middle-East and North Africa and the risks of such if that same equipment and technology is sourced from a foreign state.

(ii) An update on United States bilateral and multilateral diplomatic actions to commence negotiations on a Weapons of Mass Destruction Free Zone (WMDFZ) since the 2015 Nuclear Nonproliferation Treaty Review Conference.

(iii) A description of United States Government efforts to achieve global adherence and compliance with the Nuclear Suppliers Group, MTCR, and the 2002 International Code of Conduct against Ballistic Missile Proliferation guidelines.

(D) An account of the briefings to the appropriate committees of Congress in the reporting period detailing negotiations on any new or renewed civilian nuclear cooperation "123" agreement with any country consistent with the intent of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

(3) **FORM OF REPORT.**—The report required under paragraph (1) shall be unclassified and include a classified annex.

**SA 3040.** Mr. MARKEY submitted an amendment intended to be proposed by him to the bill S. 4638, to authorize appropriations for fiscal year 2025 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title XV, add the following:

**SEC. 1526. SMARTER APPROACHES TO NUCLEAR EXPENDITURES ACT.**

(a) **SHORT TITLE.**—This section may be cited as the "Smarter Approaches to Nuclear Expenditures Act".

(b) **FINDINGS.**—Congress makes the following findings:

(1) The United States continues to maintain an excessively large and costly arsenal of nuclear delivery systems and warheads that are a holdover from the Cold War.

(2) The current nuclear arsenal of the United States includes approximately 3,708 total nuclear warheads in its military stockpile, of which approximately 1,744 are deployed with five delivery components: land-based intercontinental ballistic missiles,

submarine-launched ballistic missiles, long-range strategic bomber aircraft armed with nuclear gravity bombs, long-range strategic bomber aircraft armed with nuclear-armed air-launched cruise missiles, and short-range fighter aircraft that can deliver nuclear gravity bombs. The strategic bomber fleet of the United States comprises 87 B-52 and 20 B-2 aircraft, over 66 of which contribute to the nuclear mission. The United States also maintains 400 intercontinental ballistic missiles and 14 Ohio-class submarines, up to 12 of which are deployed. Each of those submarines is armed with approximately 90 nuclear warheads.

(3) Between fiscal years 2021 and 2030, the United States will spend an estimated \$634,000,000,000 to maintain and recapitalize its nuclear force, according to a January 2019 estimate from the Congressional Budget Office, an increase of \$140,000,000,000 from the Congressional Budget Office's 2019 estimate, with 36 percent of that additional cost stemming "mainly from new plans for modernizing [the Department of Energy's] production facilities and from [the Department of Defense's] modernization programs moving more fully into production".

(4) Adjusted for inflation, the Congressional Budget Office estimates that the United States will spend \$634,000,000,000 between 2021 and 2030 on new nuclear weapons and modernization and infrastructure programs, an estimate that in total is 28 percent higher than the Congressional Budget Office's most recent previous estimate of the 10-year costs of nuclear forces.

(5) Inaccurate budget forecasting is likely to continue to plague the Department of Defense and the Department of Energy, as evidenced by the fiscal year 2023 budget request of the President for the National Nuclear Security Administration "Weapon Activities" account, which far exceeded what the National Nuclear Security Administration had projected in previous years.

(6) The projected growth in nuclear weapons spending is coming due as the Department of Defense is seeking to replace large portions of its conventional forces to better compete with the Russian Federation and the People's Republic of China and as internal and external fiscal pressures are likely to limit the growth of, and perhaps reduce, military spending. As then-Air Force Chief of Staff General Dave Goldfein said in 2020, "I think a debate is that this will be the first time that the nation has tried to simultaneously modernize the nuclear enterprise while it's trying to modernize an aging conventional enterprise. The current budget does not allow you to do both."

(7) In 2023, the Government Accountability Office released a report entitled "Nuclear Weapons: NNSA Does Not Have a Comprehensive Schedule or Cost Estimate for Pit Production Capability", stating the National Nuclear Security Administration "had limited assurance that it would be able to produce sufficient numbers of pits in time" to meet the requirement under section 4219 of the Atomic Energy Defense Act (50 U.S.C. 2538a) that the National Nuclear Security Administration produce 80 plutonium pits by 2030.

(8) According to the Government Accountability Office, the National Nuclear Security Administration has still not factored affordability concerns into its planning as was recommended by the Government Accountability Office in 2017, with the warning that "it is essential for NNSA to present information to Congress and other key decision makers indicating whether the agency has prioritized certain modernization programs or considered trade-offs (such as deferring or cancelling specific modernization programs)". Instead, the budget estimate of the

Department of Energy for nuclear modernization activities during the period of fiscal years 2021 through 2025 was \$81,000,000,000—\$15,000,000,000 more than the 2020 budget estimate of the Department for the same period.

(9) A December 2020 Congressional Budget Office analysis showed that the projected costs of nuclear forces over the next decade can be reduced by \$12,400,000,000 to \$13,600,000,000 by trimming back current plans, while still maintaining a triad of delivery systems. Even larger savings would accrue over the subsequent decade.

(10) The Department of Defense's June 2013 nuclear policy guidance entitled "Report on Nuclear Employment Strategy of the United States" found that force levels under the April 2010 Treaty on Measures for the Further Reduction and Limitation of Strategic Offensive Arms between the United States and the Russian Federation (commonly known as the "New START Treaty") "are more than adequate for what the United States needs to fulfill its national security objectives" and can be reduced by up to ⅓ below levels under the New START Treaty to 1,000 to 1,100 warheads.

(11) Former President Trump expanded the role of, and spending on, nuclear weapons in United States policy at the same time that he withdrew from, unsigned, or otherwise terminated a series of important arms control and nonproliferation agreements.

**(c) REDUCTIONS IN NUCLEAR FORCES.—**

(1) **REDUCTION OF NUCLEAR-ARMED SUBMARINES.**—Notwithstanding any other provision of law, none of the funds authorized to be appropriated or otherwise made available for fiscal year 2024 or any fiscal year thereafter for the Department of Defense may be obligated or expended for purchasing more than eight Columbia-class submarines.

(2) **REDUCTION OF GROUND-BASED MISSILES.**—Notwithstanding any other provision of law, beginning in fiscal year 2024, the forces of the Air Force shall include not more than 150 intercontinental ballistic missiles.

(3) **REDUCTION OF DEPLOYED STRATEGIC WARHEADS.**—Notwithstanding any other provision of law, beginning in fiscal year 2024, the forces of the United States Military shall include not more than 1,000 deployed strategic warheads, as that term is defined in the New START Treaty.

(4) **LIMITATION ON NEW LONG-RANGE PENETRATING BOMBER AIRCRAFT.**—Notwithstanding any other provision of law, none of the funds authorized to be appropriated or otherwise made available for any of fiscal years 2024 through 2028 for the Department of Defense may be obligated or expended for purchasing more than 80 B-21 long-range penetrating bomber aircraft.

(5) **PROHIBITION ON F-35 NUCLEAR MISSION.**—Notwithstanding any other provision of law, none of the funds authorized to be appropriated or otherwise made available for fiscal year 2024 or any fiscal year thereafter for the Department of Defense or the Department of Energy may be used to make the F-35 Joint Strike Fighter aircraft capable of carrying nuclear weapons.

(6) **PROHIBITION ON NEW AIR-LAUNCHED CRUISE MISSILE.**—Notwithstanding any other provision of law, none of the funds authorized to be appropriated or otherwise made available for fiscal year 2024 or any fiscal year thereafter for the Department of Defense or the Department of Energy may be obligated or expended for the research, development, test, and evaluation or procurement of the long-range stand-off weapon or any other new air-launched cruise missile or for the W80 warhead life extension program.

(7) **PROHIBITION ON NEW INTERCONTINENTAL BALLISTIC MISSILE.**—Notwithstanding any