

108TH CONGRESS  
1ST SESSION

# H. R. 1875

To strengthen the missile proliferation laws of the United States, and for  
other purposes.

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IN THE HOUSE OF REPRESENTATIVES

APRIL 30, 2003

Mr. LANTOS (for himself, Mr. HYDE, Mr. BERMAN, Mr. BEREUTER, and Mr.  
ACKERMAN) introduced the following bill; which was referred to the Com-  
mittee on International Relations

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## A BILL

To strengthen the missile proliferation laws of the United  
States, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Missile Threat Reduc-  
5 tion Act of 2003”.

6 **TITLE I—STRENGTHENING**  
7 **INTERNATIONAL MISSILE**  
8 **NONPROLIFERATION LAW**

9 **SEC. 101. FINDINGS.**

10 Congress makes the following findings:

1           (1) The spread of offensive ballistic missiles  
2           suitable for launching nuclear, chemical, and biological  
3           warheads is accelerating across the globe.

4           (2) According to the Carnegie Endowment for  
5           International Peace, more than 25 countries possess  
6           missiles with ranges in excess of 300 kilometers and  
7           capable of delivering a nuclear warhead.

8           (3)(A) Many of the countries now possessing  
9           such missiles, and engaging in the sale and transfer  
10          of such missiles and their production technology to  
11          other countries, are directly hostile to the United  
12          States, its interests, and its allies.

13          (B) Of particular concern in this regard is  
14          North Korea, which regularly sells ballistic missiles  
15          and technology to countries in regions of instability  
16          and concern to the United States.

17          (4) The Central Intelligence Agency has stated  
18          in its most recent report on the foreign ballistic mis-  
19          sile threat the following:

20                 “Emerging ballistic missile states continue  
21                 to increase the range, reliability, and accuracy  
22                 of the missile systems in their inventories—pos-  
23                 ing ever greater risks to U.S. forces, interests,  
24                 and allies throughout the world. A decade ago,  
25                 U.S. and allied forces abroad faced threats

1 from SRBM's [Short Range Ballistic Mis-  
2 siles]—primarily the Scud and its variants.  
3 Today, countries have deployed or are on the  
4 verge of deploying MRBM's [Medium Range  
5 Ballistic Missiles], placing greater numbers of  
6 targets at risk.

7 “Proliferation of ballistic missile-related  
8 technologies, materials, and expertise—espe-  
9 cially by Russian, Chinese, and North Korean  
10 entities—has enabled emerging missile states to  
11 accelerate the development timelines for their  
12 existing programs, acquire turnkey systems to  
13 gain previously non-existent capabilities—in the  
14 case of the Chinese sale of the M-11 SRBM to  
15 Pakistan—and lay the groundwork for the ex-  
16 pansion of domestic infrastructures to poten-  
17 tially accommodate even more capable and  
18 longer range future systems.”.

19 (5) The same CIA report also noted the fol-  
20 lowing: “North Korea has assumed the role as the  
21 missile and manufacturing technology source for  
22 many programs. North Korean willingness to sell  
23 complete systems and components has enabled other  
24 states to acquire longer range capabilities earlier  
25 than otherwise would have been possible—notably

1 the sale of the No Dong MRBM to Pakistan. The  
2 North also has helped countries to acquire tech-  
3 nologies to serve as the basis for domestic develop-  
4 ment efforts—as with Iran’s reverse-engineering of  
5 the No Dong in the Shahab-3 program. Meanwhile,  
6 Iran is expanding its efforts to sell missile tech-  
7 nology.”.

8 (6) Since 1987, 33 countries have committed to  
9 abide by a voluntary set of guidelines known as the  
10 Missile Technology Control Regime (MTCR), where-  
11 by adherents agreed to refrain from the transfer to  
12 nonadherents of certain categories of whole missiles,  
13 their constituent parts, and the facilities to manu-  
14 facture them, especially “Category I” missiles, which  
15 at a range of 300 kilometers or more and a payload  
16 capacity of 500 kilograms or more are especially  
17 suited for delivering nuclear weapons.

18 (7) In October 2002, 93 countries committed to  
19 observe a nonbinding code of conduct derived from,  
20 but less restrictive than, the nonbinding MTCR.  
21 While this is a welcome achievement, it does not pro-  
22 vide a legal obligation on its adherents to refrain  
23 from the trade in missiles or missile technology.

24 (8) On December 10, 2002, the White House  
25 released its “National Strategy to Combat Weapons

1 of Mass Destruction”, wherein it is stated that  
2 strengthening international nonproliferation controls  
3 on weapons of mass destruction (WMD) and upon  
4 the missiles that can deliver them is the second of  
5 three principal pillars of the National Strategy. The  
6 National Strategy also states that “effective inter-  
7 diction is a critical part of the U.S. strategy to com-  
8 bat WMD and their delivery means”.

9 (9) On December 11, 2002, the United States  
10 took control of an unflagged freighter that was at-  
11 tempting clandestinely to ship, from North Korea to  
12 Yemen, SCUD missiles of a type that would be gen-  
13 erally prohibited from transfer as Category I mis-  
14 siles.

15 (10) Neither North Korea nor Yemen is an ad-  
16 herent to the MTCR guidelines, which in any case  
17 are not legally binding, and there is no binding  
18 international legal instrument that would prohibit  
19 shipments of the missiles referred to in paragraph  
20 (9).

21 (11) At Yemen’s request, the United States re-  
22 leased the shipment of North Korean Scud missiles  
23 to Yemen.

24 (12) Also on December 11, 2002, the White  
25 House press spokesman stated that existing inter-

1 national law regarding halting the spread of missile  
2 proliferation could be strengthened. The new Na-  
3 tional Strategy to Combat Weapons of Mass De-  
4 struction also commits the United States to support  
5 those regimes that are currently in force, and to  
6 work to improve the effectiveness of, and compliance  
7 with, those regimes, and identifies the MTCR as a  
8 regime that the United States will seek to strength-  
9 en.

10 (13) Secretary of Defense Donald Rumsfeld,  
11 testifying on February 12, 2003, before the Com-  
12 mittee on Armed Services of the Senate, stated the  
13 following: “. . . [I]t’s pretty clear that the pro-  
14 liferation regimes that exist in the world worked  
15 pretty well before, [but] they’re not working very  
16 well right now. . . . [U]nless the world wakes up  
17 and says this is a dangerous thing and creates a set  
18 of regimes that will in fact get cooperation to stop  
19 those weapons, we’re going to be facing a very seri-  
20 ous situation in the next five years.”.

21 (14) The MTCR has made an invaluable con-  
22 tribution to restraint in the international trade of of-  
23 fensive ballistic missiles. Strengthening international  
24 controls on ballistic missiles, however, will require a  
25 dramatic expansion of adherents that rigorously

1       abide by the MTCR's guidelines, and a binding legal  
2       basis for the United Nations and countries devoted  
3       to nonproliferation to prevent, and when necessary  
4       act to prevent, further proliferation of offensive bal-  
5       listic missiles around the world.

6               (15) Therefore, it should be the policy of the  
7       United States to promote the creation of new inter-  
8       national mechanisms that would, in all future cir-  
9       cumstances, allow the peace-loving and law-abiding  
10      nations of the world the authority to interdict and  
11      prevent the transfer of such missiles.

12   **SEC. 102. POLICY OF THE UNITED STATES.**

13       It shall be the policy of the United States to seek  
14      a binding international instrument or instruments to re-  
15      strict the trade in offensive ballistic missiles with ranges  
16      of 300 kilometers or more that have a payload capacity  
17      of 500 kilograms or more. Such a binding international  
18      instrument may take the form of a multilateral treaty, a  
19      United Nations Security Council resolution, or other in-  
20      strument of international law, and should provide for en-  
21      forcement measures including interdiction, seizure, and  
22      impoundment of illicit shipments of offensive ballistic mis-  
23      siles and related technology, equipment, and components.

1 **SEC. 103. SENSE OF CONGRESS.**

2 It is the sense of the Congress that the United States  
3 should immediately introduce a resolution in the United  
4 Nations Security Council to prohibit all members of the  
5 United Nations from purchasing, receiving, assisting or al-  
6 lowing the transfer of, and to authorize the subsequent  
7 interdiction, seizure, and impoundment of, any missile,  
8 missile-related equipment, means of producing missiles, or  
9 missile-related technology from North Korea.

10 **TITLE II—STRENGTHENING**  
11 **UNITED STATES MISSILE**  
12 **NONPROLIFERATION LAW**

13 **SEC. 201. PROBATIONARY PERIOD FOR FOREIGN PERSONS.**

14 (a) IN GENERAL.—Notwithstanding any other provi-  
15 sion of law, upon the expiration, or the granting of a waiv-  
16 er, on or after January 1, 2003, of sanctions against a  
17 foreign person imposed under section 73(a) of the Arms  
18 Export Control Act (22 U.S.C. 2797b(a)) or under section  
19 11B(b)(1) of the Export Administration Act of 1979 (50  
20 U.S.C. App. 2410b(b)(1)), as continued in effect under  
21 the International Emergency Economic Powers Act, a li-  
22 cense shall be required, for a period of not less than 3  
23 years, for the export to that foreign person of all items  
24 controlled for export under section 5 or 6 of the Export  
25 Administration Act of 1979 (50 U.S.C. App. 2404, 2405),  
26 as continued in effect under the International Emergency



1 Economic Powers Act, in accordance with the Export Ad-  
2 ministration Regulations.

3 (b) TERMINATION.—Subsection (a) shall not apply to  
4 a foreign person 30 days after the President notifies the  
5 Committee on International Relations of the House of  
6 Representatives and the Committee on Banking, Housing,  
7 and Urban Affairs and the Committee on Foreign Rela-  
8 tions of the Senate that he has determined that—

9 (1) the foreign person has—

10 (A) ceased all activity related to the origi-  
11 nal imposition of sanctions under section 73(a)  
12 of the Arms Export Control Act or section  
13 11B(b)(A) of the Export Administration Act of  
14 1979, as the case may be; and

15 (B) has instituted a program of trans-  
16 parency measures whereby the United States  
17 will be able to verify for at least a period of 3  
18 years that the foreign person is not engaging in  
19 prohibited activities under those provisions of  
20 law referred to in paragraph (1); and

21 (2) there has been an appropriate resolution of  
22 the original violation or violations, such as financial  
23 penalties, incarceration, destruction of prohibited  
24 items, or other appropriate measures taken to pre-  
25 vent a recurrence of the violation or violations.

1 **SEC. 202. STRENGTHENING UNITED STATES MISSILE PRO-**  
2 **LIFERATION SANCTIONS ON FOREIGN PER-**  
3 **SONS.**

4 (a) ARMS EXPORT CONTROL ACT.—Section 73(a)(2)  
5 of the Arms Export Control Act (22 U.S.C. 2797b(a)(2))  
6 is amended by striking “2 years” each place it appears  
7 and inserting “4 years”.

8 (b) PUBLIC INFORMATION.—Section 73(e)(2) of the  
9 Arms Export Control Act (22 U.S.C. 2797b(e)(2)) is  
10 amended by adding at the end the following new sentence:  
11 “Such report may be classified only to the extent nec-  
12 essary to protect intelligence sources and methods. If the  
13 report is so classified, the President shall make every ef-  
14 fort to acquire sufficient alternative information that  
15 would allow a subsequent unclassified version of the report  
16 to be issued.”.

17 (c) EXPORT ADMINISTRATION ACT OF 1979.—Any  
18 sanction imposed on a foreign person under section  
19 11B(b)(1) of the Export Administration Act of 1979 (50  
20 U.S.C. App. 2410b(b)(1)), as continued in effect under  
21 the International Emergency Economic Powers Act, shall  
22 be in effect for a period of 4 years beginning on the date  
23 on which the sanction was imposed.

24 (d) APPLICABILITY.—The amendments made by sub-  
25 sections (a) and (b) and the provisions of subsection (c)  
26 shall apply to all sanctions imposed under section 73(a)

1 of the Arms Export Control Act or section 11B(b)(1) of  
2 the Export Administration Act of 1979, as continued in  
3 effect under the International Emergency Economic Pow-  
4 ers Act, by reason of acts giving rise to such sanctions  
5 that were committed by foreign persons on or after Janu-  
6 ary 1, 2003.

7 **SEC. 203. COMPREHENSIVE UNITED STATES MISSILE PRO-**  
8 **LIFERATION SANCTIONS ON ALL RESPON-**  
9 **SIBLE PERSONS.**

10 (a) ARMS EXPORT CONTROL ACT.—Section 73(a) of  
11 the Arms Export Control Act (22 U.S.C. 2797b(a)) is  
12 amended by adding at the end the following new para-  
13 graph:

14 “(3)(A) Sanctions imposed upon a foreign person  
15 under paragraph (2) shall also be imposed on any govern-  
16 mental entity that the President determines exercises ef-  
17 fective control over, benefits from, or directly or indirectly  
18 facilitates the activities of that foreign person.

19 “(B) When a sanction is imposed on a foreign person  
20 under paragraph (2), the President may also impose that  
21 sanction on any other person or entity that the President  
22 has reason to believe has or may acquire items that may  
23 not be exported to that foreign person on account of the  
24 sanction imposed on that foreign person, with the intent

1 to transfer to that foreign person, or provide to that for-  
2 eign person access to, such items.

3 “(C) The President may also prohibit, for such period  
4 of time as he may determine, any transaction or dealing,  
5 by a United States person or within the United States,  
6 with any foreign person on whom sanctions have been im-  
7 posed under this subsection.

8 “(D) The President shall report on an annual basis  
9 to the Committee on International Relations of the House  
10 of Representatives and the Committee on Foreign Rela-  
11 tions of the Senate the identity of any foreign person that  
12 engages in any transaction or activity with a foreign per-  
13 son on whom sanctions have been imposed under this sub-  
14 section that either—

15 “(i) would be the basis for imposing sanctions  
16 under subparagraph (B) but for which sanctions  
17 have not been imposed; or

18 “(ii) would be the basis for imposing sanctions  
19 under subparagraph (C) if the transaction or activity  
20 had been carried out by a United States person or  
21 by a person in the United States.

22 Such report shall be unclassified to the maximum extent  
23 feasible, but may include a classified annex.”.

1 (b) DEFINITION OF PERSON.—Section 74(a)(8)(A) of  
2 the Arms Export Control Act (22 U.S.C. 2797e(a)(8)(A))  
3 is amended to read as follows:

4 “(8)(A) the term ‘person’ means—

5 “(i) a natural person;

6 “(ii) a corporation, business association,  
7 partnership, society, trust, transnational cor-  
8 poration, or transnational joint venture, any  
9 other nongovernmental entity, organization, or  
10 group, and any governmental entity;

11 “(iii) any subsidiary, subunit, or parent en-  
12 tity of any business enterprise or other organi-  
13 zation or entity listed in clause (ii); and

14 “(iv) any successor of any business enter-  
15 prise or other organization or entity listed in  
16 clause (ii) or (iii); and”.

17 (c) EXPORT ADMINISTRATION ACT OF 1979.—

18 (1) SANCTIONS IMPOSED ON GOVERNMENT EN-  
19 TITIES.—Any sanction imposed on a foreign person  
20 under section 11B(b)(1)(B) of the Export Adminis-  
21 tration Act of 1979 (50 U.S.C. App.  
22 2410b(b)(1)(B)), as continued in effect under the  
23 International Emergency Economic Powers Act (in  
24 this subsection referred to as a “dual use sanction”),  
25 shall also be imposed on any governmental entity

1 that the President determines exercises effective con-  
2 trol over, benefits from, or directly or indirectly fa-  
3 cilitates the activities of that foreign person.

4 (2) OTHER ENTITIES.—When a dual use sanc-  
5 tion is imposed on a foreign person, the President  
6 may also impose that sanction on any other person  
7 or entity that the President has reason to believe  
8 has or may acquire items that may not be exported  
9 to that foreign person on account of the dual use  
10 sanction imposed on that foreign person, with the in-  
11 tent to transfer to that foreign person, or provide to  
12 that foreign person access to, such items.

13 (3) TRANSACTIONS BY THIRD PARTIES.—The  
14 President may also prohibit, for such period of time  
15 as he may determine, any transaction or dealing, by  
16 a United States person or within the United States,  
17 with any foreign person on whom dual use sanctions  
18 have been imposed.

19 (4) REPORT.—The President shall submit on  
20 an annual basis to the appropriate congressional  
21 committees a report that contains the identity of any  
22 foreign person that engages in any transaction or  
23 activity with a foreign person on whom dual use  
24 sanctions have been imposed that either—

1 (A) would be the basis for imposing dual  
2 use sanctions under paragraph (2) but for  
3 which such sanctions have not been imposed; or

4 (B) would be the basis for imposing dual  
5 use sanctions under paragraph (3) if the trans-  
6 action or activity had been carried out by a  
7 United States person or by a person in the  
8 United States.

9 Such report shall be unclassified to the maximum  
10 extent feasible, but may include a classified annex.

11 (5) DEFINITIONS.—In this subsection:

12 (A) PERSON.—The term “person”  
13 means—

14 (i) a natural person;

15 (ii) a corporation, business associa-  
16 tion, partnership, society, trust,  
17 transnational corporation, or transnational  
18 joint venture, any other nongovernmental  
19 entity, organization, or group, and any  
20 governmental entity;

21 (iii) any subsidiary, subunit, or parent  
22 entity of any business enterprise or other  
23 organization or entity listed in clause (ii);  
24 and

1 (iv) any successor of any business en-  
2 terprise or other organization or entity list-  
3 ed in clause (ii) or (iii).

4 (B) In the case of countries where it may  
5 be impossible to identify a specific governmental  
6 entity referred to in subparagraph (A), the  
7 term “person” means—

8 (i) all activities of that government re-  
9 lating to the development or production of  
10 any missile equipment or technology; and

11 (ii) all activities of that government  
12 affecting the development or production of  
13 aircraft, electronics, and space systems or  
14 equipment.

15 (B) UNITED STATES PERSON.—The term  
16 “United States person” has the meaning given  
17 that term in section 16(2) of the Export Ad-  
18 ministration Act of 1979 (50 U.S.C. App.  
19 2415(2)).

20 (C) MISSILE EQUIPMENT OR TECH-  
21 NOLOGY.—The term “missile equipment or  
22 technology” has the meaning given that term in  
23 section 11B(c) of the Export Administration  
24 Act of 1979 (50 U.S.C. App. 2410b(c)).



1 (d) EFFECTIVE DATE.—The amendments made by  
2 subsections (a) and (b) shall apply with respect to sanc-  
3 tions imposed on or after January 1, 2003, on foreign per-  
4 sons under section 73(a)(2) of the Arms Export Control  
5 Act, and the provisions of subsection (c) shall apply with  
6 respect to sanctions imposed on or after January 1, 2003,  
7 on foreign persons under section 11B(b) of the Export Ad-  
8 ministration Act of 1979 (50 U.S.C. App. 2410b(b)), as  
9 continued in effect under the International Emergency  
10 Economic Powers Act.

11 **TITLE III—Incentives for Missile**  
12 **Threat Reduction**

13 **SEC. 301. FOREIGN ASSISTANCE.**

14 (a) TYPES OF ASSISTANCE.—The President is au-  
15 thorized to provide, on such terms as the President deems  
16 appropriate, the following assistance to countries that  
17 agree to destroy their ballistic missiles, and their facilities  
18 for producing ballistic missiles, that have a payload capac-  
19 ity of 500 kilograms or more over a distance of 300 kilo-  
20 meters or more:

21 (1) Assistance under section 23 of the Arms  
22 Export Control Act (22 U.S.C. 2763).

23 (2) Assistance under chapter 4 of part II of the  
24 Foreign Assistance Act of 1961 (22 U.S.C. 2346 et

1 seq.), notwithstanding section 531(e) or 660(a) of  
2 that Act (22 U.S.C. 2346(e) or 2420(a)).

3 (3) Drawdown of defense articles, defense serv-  
4 ices, and military education and training under sec-  
5 tion 506 of the Foreign Assistance Act of 1961 (22  
6 U.S.C. 2318).

7 (b) CONGRESSIONAL NOTIFICATION.—Assistance au-  
8 thorized under subsection (a) may not be provided until  
9 30 days after the date on which the President has pro-  
10 vided notice thereof to the appropriate congressional com-  
11 mittees in accordance with the procedures applicable to  
12 reprogramming notifications under section 634A(a) of the  
13 Foreign Assistance Act of 1961 (22 U.S.C. 2394–1(a)).

14 (c) LIMITATION.—Any assistance provided to a coun-  
15 try under subsection (a) may not be provided in more than  
16 3 fiscal years.

17 **SEC. 302. AUTHORIZATION OF APPROPRIATIONS.**

18 (a) AUTHORIZATION.—There is authorized to be ap-  
19 propriated to the President to carry out section 301 the  
20 sum of \$250,000,000.

21 (b) AVAILABILITY.—Amounts appropriated pursuant  
22 to the authorization of appropriations under subsection (a)  
23 are authorized to remain available until expended.

1 **SEC. 303. AUTHORIZATION OF TECHNICAL ASSISTANCE IN**  
2 **MISSILE DISARMAMENT.**

3       The President is authorized to provide technical as-  
4 sistance in the destruction of any missile or facility for  
5 producing ballistic missiles, in any country that requests  
6 such assistance.

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