To provide criminal and civil penalties for the unlawful acquisition, transfer, or use of any chemical weapon or biological weapon, and to reduce the threat of acts of terrorism or armed aggression involving the use of any such weapon against the United States, its citizens, or Armed Forces, or those of any allied country, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 20, 1997

Mr. Kyl (for himself, Mr. Lott, Mr. Nickles, Mr. Mack, Mr. Coverdell, Mr. Helms, Mr. Shelby, and Mrs. Hutchison) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide criminal and civil penalties for the unlawful acquisition, transfer, or use of any chemical weapon or biological weapon, and to reduce the threat of acts of terrorism or armed aggression involving the use of any such weapon against the United States, its citizens, or Armed Forces, or those of any allied country, 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,
SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Chemical and Biological Weapons Threat Reduction Act of 1997”.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Policy.
Sec. 4. Definitions.

TITLE I—PENALTIES FOR UNLAWFUL ACTIVITIES WITHIN THE UNITED STATES OR BY UNITED STATES NATIONALS ABROAD

Subtitle A—Criminal Penalties

Sec. 101. Criminal provisions.

Subtitle B—Civil Penalties

Sec. 111. Designation of lead agency.
Sec. 112. Prohibitions on chemical and biological weapons-related activities.
Sec. 113. Civil penalties.
Sec. 114. Regulatory authority; application of other laws.

Subtitle C—Other Penalties

Sec. 121. Revocations of export privileges.
Sec. 122. Suspension of patent rights.

TITLE II—FOREIGN RELATIONS AND DEFENSE-RELATED PROVISIONS

Sec. 201. Sanctions for use of chemical or biological weapons.
Sec. 202. Continuation and enhancement of multilateral control regimes.
Sec. 203. Criteria for United States assistance to Russia.
Sec. 204. Report on the state of chemical and biological weapons proliferation.
Sec. 205. International conference to strengthen the 1925 Geneva Protocol.
Sec. 206. Restriction on use of funds for the Organization for the Prohibition of Chemical Weapons.
Sec. 207. Enhancements to robust chemical and biological defenses.
Sec. 208. Negative security assurances.
Sec. 209. Riot control agents.

SEC. 2. FINDINGS.

The Congress finds that—
(1) the United States eliminated its stockpile of biological weapons pursuant to the 1972 Biological Weapons Convention and has pledged to destroy its entire inventory of chemical weapons by 2004, independent of the Chemical Weapons Convention entering into force;

(2) the use of chemical or biological weapons in contravention of international law is abhorrent and should trigger immediate and effective sanctions;

(3) United Nations Security Council Resolution 620, adopted on August 26, 1988, states the intention of the Security Council to consider immediately “appropriate and effective” sanctions against any nation using chemical and biological weapons in violation of international law;

(4) the General Agreement on Tariffs and Trade recognizes that national security concerns may serve as legitimate grounds for limiting trade; title XXI of the General Agreement on Tariffs and Trade states that “nothing in this Agreement shall be construed . . . to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests. . . ."
(5) on September 30, 1993, the President declared by Executive Order No. 12868 a national emergency to deal with “the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States” posed by the proliferation of nuclear, biological and chemical weapons, and of the means for delivering such weapons;

(6) Russia has not implemented the 1990 United States-Russian Bilateral Agreement on Destruction and Non-Production of Chemical Weapons and on Measures to Facilitate the Multilateral Convention on Banning Chemical Weapons, known as the “BDA”, nor has the United States and Russia resolved, to the satisfaction of the United States, the outstanding compliance issues under the Memorandum of Understanding Between the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related To Prohibition on Chemical Weapons, known as the “1989 Wyoming MOU”;

(7) the Intelligence Community has stated that a number of countries, among them China, Egypt, Iran, Iraq, Libya, North Korea, Syria, and Russia,
possess chemical and biological weapons and the means to deliver them;

(8) four countries in the Middle East—Iran, Iraq, Libya, and Syria—have, as a national policy, supported international terrorism;

(9) chemical and biological weapons have been used by states in the past for intimidation and military aggression, most recently during the Iran-Iraq war and by Iraq against its Kurdish minority;

(10) the grave new threat of chemical and biological terrorism has been demonstrated by the 1995 nerve gas attack on the Tokyo subway by the Japanese cult Aum Shinrikyo;

(11) the urgent need to improve domestic preparedness to protect against chemical and biological threats was underscored by enactment of the 1997 Defense Against Weapons of Mass Destruction Act;

(12) the Department of Defense, in light of growing chemical and biological threats in regions of key concern, including Northeast Asia, and the Middle East, has stated that United States forces must be properly trained and equipped for all missions, including those in which opponents might threaten use of chemical or biological weapons; and
(13) Australia Group controls on the exports of chemical and biological agents, and related equipment, and the Missile Technology Control Regime, together provide an indispensable foundation for international and national efforts to curb the spread of chemical and biological weapons, and their delivery means.

SEC. 3. POLICY.

It should be the policy of the United States to take all appropriate measures to—

(1) prevent and deter the threat or use of chemical and biological weapons against the citizens, Armed Forces, and territory of the United States and its allies, and to protect against, and manage the consequences of, such use should it occur;

(2) discourage the proliferation of chemical and biological weapons, their means of delivery, and related equipment, material, and technology;

(3) prohibit within the United States the development, production, acquisition, stockpiling, and transfer to third parties of chemical or biological weapons, their precursors and related technology; and

(4) impose unilateral sanctions, and seek immediately international sanctions, against any nation
using chemical and biological weapons in violation of
international law.

SEC. 4. DEFINITIONS.

In this Act:

(1) AUSTRALIA GROUP.—The term “Australia Group” refers to the informal forum of countries,
formed in 1984 and chaired by Australia, whose goal is to discourage and impede chemical and biological
weapons proliferation by harmonizing national export controls on precursor chemicals for chemical
weapons, biological weapons pathogens, and dual-use equipment, sharing information on target countries,
and seeking other ways to curb the use of chemical weapons and biological weapons.

(2) BIOLOGICAL WEAPON.—The term “biological weapon” means the following, together or sepa-
rately:

(A) Any micro-organism (including bacteria, viruses, fungi, rickettsiae or protozoa),
pathogen, or infectious substance, or any naturally occurring, bio-engineered or synthesized
component of any such micro-organism, pathogen, or infectious substance, whatever its origin
or method of production, capable of causing—
(i) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(ii) deterioration of food, water, equipment, supplies, or materials of any kind; or

(iii) deleterious alteration of the environment.

(B) Any munition or device specifically designed to cause death or other harm through the toxic properties of those biological weapons specified in subparagraph (A), which would be released as a result of the employment of such munition or device.

(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in this section.

(D) Any living organism specifically designed to carry a biological weapon specified in subparagraph (A) to a host.

(3) CHEMICAL WEAPON.—The term “chemical weapon” means the following, together or separately:

(A) Any of the following chemical agents: tabun, Sarin, Soman, GF, VX, sulfur mustard, nitrogen mustard, phosgene oxime, lewisite,
phenyldichloroarsine, ethyldichloroarsine, methylidichloroarsine, phosgene, diphosgene, hydrogen cyanide, cyanogen chloride, and arsine.

(B) Any of the 54 chemicals other than a riot control agent that is controlled by the Australia Group as of the date of the enactment of this Act.

(C) Any munition or device specifically designed to cause death or other harm through the toxic properties of a chemical weapon specified in subparagraph (A) or (B), which would be released as a result of the employment of such munition or device.

(D) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in this section.

(4) KNOWINGLY.—The term “knowingly” is used within the meaning of “knows” as that term is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd–2) and includes situations in which a person has reason to know.

(5) NATIONAL OF THE UNITED STATES.—The term “national of the United States” has the same meaning given such term in section 101(a)(22) of
the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(6) PERSON.—The term “person” means any individual, corporation, partnership, firm, association, or other legal entity.

(7) PURPOSE NOT PROHIBITED UNDER THIS ACT.—The term “purpose not prohibited under this Act” means—

(A) any industrial, agricultural, research, medical, pharmaceutical, or other peaceful purpose;

(B) any protective purpose, namely any purpose directly related to protection against a chemical or biological weapon;

(C) any military purpose that is not connected with the use of a chemical or biological weapon or that is not dependent on the use of the toxic properties of the chemical or biological weapon to cause death or other harm; or

(D) any law enforcement purpose, including any domestic riot control purpose.

(8) RIOT CONTROL AGENT.—The term “riot control agent” means any substance, including diphenylechloroarsine, diphenyleynoarsine, adamsite, chloroacetophenone, chloropierin, bromobenzyl cyli-
nide, 0-chlorobenzylidene malononitrile, or 3-
Quinuclidinyl benzilate, that is designed or used to
produce rapidly in humans any nonlethal sensory ir-
ritation or disabling physical effect that disappears
within a short time following termination of expo-
sure.

(9) UNITED STATES.—The term “United
States” means the several States of the United
States, the District of Columbia, and the common-
wealths, territories, and possessions of the United
States and includes all places under the jurisdiction
or control of the United States, including—

(A) any of the places within the provisions
of section 101(41) of the Federal Aviation Act
1301(41));

(B) any public aircraft or civil aircraft of
the United States, as such terms are defined in
sections 101 (36) and (18) of the Federal Avia-
secs. 1301(36) and 1301(18)); and

(C) any vessel of the United States, as
such term is defined in section 3(b) of the Mar-
itime Drug Enforcement Act, as amended (46
U.S.C., App. sec. 1903(b)).
TITLE I—PENALTIES FOR UNLAWFUL ACTIVITIES WITHIN THE UNITED STATES OR BY UNITED STATES NATIONALS ABROAD

Subtitle A—Criminal Penalties

SEC. 101. CRIMINAL PROVISIONS.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 11A the following new chapter:

“CHAPTER 11B—CHEMICAL AND BIOLOGICAL WEAPONS

§ 229. Penalties and prohibitions with respect to chemical and biological weapons

“(a) IN GENERAL.—Except as provided in subsection (c), whoever knowingly develops, produces, otherwise acquires, receives from any person located outside the territory of the United States, stockpiles, retains, directly or indirectly transfers, uses, owns, or possesses any chemical weapon or any biological weapon, or knowingly assists, encourages or induces, in any way, any person to do so, or
attempt or conspire to do so, shall be fined under this title or imprisoned for life or any term of years or both, unless—

“(1) the chemical weapon or biological weapon is intended for a purpose not prohibited under this Act;

“(2) the types and quantities of chemical weapons or biological weapons are strictly limited to those that can be justified for such purposes; and

“(3) the amount of such chemical weapons or biological weapons per person at any given time does not exceed a quantity that under the circumstances is inconsistent with the purposes not prohibited under this Act.

“(b) DEATH PENALTY.—Any person who knowingly uses chemical or biological weapons in violation of subsection (a) and by whose action the death of another person is the result shall be punished by death or imprisoned for life.

“(c) EXCLUSION.—

“(1) IN GENERAL.—Subsection (a) does not apply to the retention, ownership, or possession of a chemical weapon or a biological weapon by an agency of the United States or a person described in paragraph (2) pending destruction of the weapon.
“(2) COVERED PERSONS.—A person referred to in paragraph (1) is a member of the Armed Forces of the United States or any other person if the person is authorized by the head of an agency of the United States to retain, own, or possess the chemical or biological weapon.

“(d) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if the prohibited conduct—

“(1) takes place in the United States; or

“(2) takes place outside of the United States and is committed by a national of the United States.

“(e) REIMBURSEMENT OF COSTS.—The court shall order any person convicted of an offense under this section to reimburse the United States for any expenses incurred by the United States incident to the seizure, storage, handling, transportation, and destruction or other disposition of any property that was seized in connection with an investigation of the commission of the offense by that person. A person ordered to reimburse the United States for expenses under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered under this subsection to reimburse the United States for the same expenses.
§ 229A. Seizure, forfeiture, and destruction

“(a) SEIZURE.—

“(1) SEIZURES ON WARRANTS.—The Attorney General may request the issuance, in the same manner as provided for a search warrant, of a warrant authorizing the seizure of any chemical weapon or any biological weapon that is of a type or quantity that, under the circumstances, is inconsistent with the purposes not prohibited under this Act.

“(2) WARRANTLESS SEIZURES.—In exigent circumstances, seizure and destruction of any such chemical weapon or biological weapon described in paragraph (1) may be made by the Attorney General upon probable cause without the necessity for a warrant.

“(b) PROCEDURE FOR FORFEITURE AND DESTRUCTION.—

“(1) IN GENERAL.—Except as provided in subsection (a)(2), property seized pursuant to subsection (a) shall be forfeited to the United States after notice to potential claimants and an opportunity for a hearing.

“(2) BURDEN OF PERSUASION.—At such a hearing, the United States shall bear the burden of persuasion by a preponderance of the evidence.
“(3) Procedures.—The provisions of chapter 46 of this title relating to civil forfeitures shall apply to a seizure or forfeiture under this section except to the extent (if any) that such provisions are inconsistent with this section.

“(4) Destruction or Other Disposition.—
The Attorney General shall provide for the destruction or other appropriate disposition of any chemical or biological weapon seized and forfeited pursuant to this section.

“(e) Other Seizure, Forfeiture, and Destruction.—

“(1) Seizures on Warrant.—The Attorney General may request the issuance, in the same manner as provided for a search warrant, of a warrant authorizing the seizure of any chemical weapon or biological weapon that exists by reason of conduct prohibited under section 229 of this title.

“(2) Warrantless Seizures.—In exigent circumstances, seizure and destruction of any such chemical weapon or biological weapon described in paragraph (1) may be made by the Attorney General upon probable cause without the necessity for a warrant.
“(3) **Forfeiture and destruction.**—Property seized pursuant to this subsection shall be summarily forfeited (within the meaning of section 609(b) of the Tariff Act of 1930) to the United States and destroyed.

“(d) **Assistance.**—The Attorney General may request the head of any agency of the United States to assist in the handling, storage, transportation, or destruction of property seized under this section.

“(e) **Owner or possessor liability.**—The owner or possessor of any property seized under this section shall be jointly and severally liable to the United States in an action for money damages for any expenses incurred by the United States incident to the seizure, including any expenses relating to the handling, storage, transportation, destruction or other disposition of the seized property.

§ 229B. **Other prohibitions**

“(a) **In general.**—Whoever knowingly uses riot control agents as an act of terrorism, or knowingly assists any person to do so, shall be fined under this title or imprisoned for a term of not more than 10 years, or both.

“(b) **Jurisdiction.**—Conduct prohibited by this section is within the jurisdiction of the United States if the prohibited conduct—

“(1) takes place in the United States; or
“(2) takes place outside of the United States and is committed by a national of the United States.

§ 229C. Injunctions

“The United States may obtain in a civil action an injunction against—

“(1) the conduct prohibited under section 229 of this title; or

“(2) the preparation or solicitation to engage in conduct prohibited under section 229 of this title.

§ 229D. Requests for military assistance to enforce prohibition in certain emergencies

“The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 229 of this title in an emergency situation involving a biological weapon or chemical weapon. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.

§ 229E. Definitions

“In this chapter:

“(1) Australia Group.—The term ‘Australia Group’ refers to the informal forum of countries, formed in 1984 and chaired by Australia, whose goal is to discourage and impede chemical and biological
weapons proliferation by harmonizing national ex-
port controls on precursor chemicals for chemical
weapons, biological weapons pathogens, and dual-use
equipment, sharing information on target countries,
and seeking other ways to curb the use of chemical
and biological weapons.

“(2) BIOLOGICAL WEAPON.—The term ‘biologi-
cal weapon’ means the following, together or sepa-
rately:

“(A) Any micro-organism (including bac-
teria, viruses, fungi, rickettsiae or protozoa),
pathogen, or infectious substance, or any natu-
rally occurring, bio-engineered or synthesized
component of any such micro-organism, patho-
gen, or infectious substance, whatever its origin
or method of production, capable of causing—

“(i) death, disease, or other biological
malfunction in a human, an animal, a
plant, or another living organism;

“(ii) deterioration of food, water,
equipment, supplies, or materials of any
kind; or

“(iii) deleterious alteration of the en-
vironment.
“(B) Any munition or device specifically
designed to cause death or other harm through
the toxic properties of those biological weapons
specified in subparagraph (A), which would be
released as a result of the employment of such
munition or device.

“(C) Any equipment specifically designed
for use directly in connection with the employ-
ment of munitions or devices specified in this
section.

“(D) Any living organism specifically de-
signed to carry a biological weapon specified in
subparagraph (A) to a host.

“(3) CHEMICAL WEAPON.—The term ‘chemical
weapon’ means the following, together or separately:

“(A) Any of the following chemical agents:
tabun, Sarin, Soman, GF, VX, sulfur mustard,
nitrogen mustard, phosgene oxime, lewisite,
phenyldichloroarsine, ethyldichloroarsine,
methyldichloroarsine, phosgene, diphosgene, hy-
drogen cyanide, cyanogen chloride, and arsine.

“(B) Any of the 54 chemicals, other than
a riot control agent, controlled by the Australia
Group as of the date of the enactment of this
Act.
“(C) Any munition or device specifically
designed to cause death or other harm through
the toxic properties of a chemical weapon speci-
fied in subparagraph (A) or (B), which would
be released as a result of the employment of
such munition or device.

“(D) Any equipment specifically designed
for use directly in connection with the employ-
ment of munitions or devices specified in this
section.

“(4) KNOWINGLY.—The term ‘knowingly’ is
used within the meaning of ‘knows’ as that term is
defined in section 104 of the Foreign Corrupt Prac-
tices Act of 1977 (15 U.S.C. 78dd–2) and includes
situations in which a person has reason to know.

“(5) NATIONAL OF THE UNITED STATES.—The
term ‘national of the United States’ has the same
meaning given such term in section 101(a)(22) of
the Immigration and Nationality Act (8 U.S.C.
1101(a)(22)).

“(6) PERSON.—The term ‘person’ means any
individual, corporation, partnership, firm, associa-
tion, or other legal entity.
“(7) Purpose not prohibited under the Act.—The term ‘purpose not prohibited under this Act’ means—

“(A) any industrial, agricultural, research, medical, pharmaceutical, or other peaceful purpose;

“(B) any protective purpose, namely any purpose directly related to protection against a chemical or biological weapon;

“(C) any military purpose that is not connected with the use of a chemical or biological weapon or that is not dependent on the use of the toxic properties of the chemical or biological weapon to cause death or other harm; or

“(D) any law enforcement purpose, including any domestic riot control purpose.

“(8) Riot control agent.—The term ‘riot control agent’ means any substance, including diphenylchloroarsine, diphenyleyanoarsine, adamsite, chloroacetophenone, chloropierin, bromobenzyl cyanide, 0-chlorobenzylidene malononitrile, or 3-Quinuclidinyl benzilate that is designed or used to produce rapidly in humans any nonlethal sensory irritation or disabling physical effect that disappears
within a short time following termination of exposure.

“(9) TERRORISM.—The term ‘terrorism’ means activities that—

“(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; and

“(B) appear to be intended—

“(i) to intimidate or coerce a civilian population;

“(ii) to influence the policy of a government by intimidation or coercion; or

“(iii) to affect the conduct of a government by assassination or kidnapping.

“(10) UNITED STATES.—The term ‘United States’ means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States and includes all places under the jurisdiction or control of the United States, including—
“(A) any of the places within the provisions of section 40102(41) of title 49, United States Code;

“(B) any civil aircraft or public aircraft of the United States, as such terms are defined in paragraphs (16) and (37), respectively, of section 40102 of title 49, United States Code; and

“(C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(b)).”.

(b) CONFORMING AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended—

(1) by striking the item relating to chapter 10;

and

(2) by inserting after the item for chapter 11A the following new item:

“11B. Chemical and Biological Weapons .................................. 229”.

(c) REPEALS.—The following provisions of law are repealed:

(1) Chapter 10 of title 18, United States Code, relating to biological weapons.

(2) Section 2332e of title 18, United States Code, relating to chemical weapons.
(3) In the table of sections for chapter 113B of title 18, United States Code, the item relating to section 2332c.

Subtitle B—Civil Penalties

SEC. 111. DESIGNATION OF LEAD AGENCY.

The President shall designate the Federal Bureau of Investigation as the agency primarily responsible for implementing the provisions of this subtitle (in this subtitle referred to as the “Lead Agency”).

SEC. 112. PROHIBITIONS ON CHEMICAL AND BIOLOGICAL WEAPONS-RELATED ACTIVITIES.

(a) Chemical and Biological Weapons Activities.—Except as provided in subsection (b), it shall be unlawful for any person located in the United States, or any national of the United States located outside the United States, to develop, produce, otherwise acquire, receive from any person located outside the territory of the United States, stockpile, retain, directly or indirectly transfer, use, own, or possess any chemical weapon or any biological weapon, or to assist, encourage or induce, in any way, any person to do so, or attempt or conspire to do so, unless—

(1) the chemical weapon or biological weapon is intended for a purpose not prohibited under this Act;
(2) the types and quantities of the chemical
weapon or biological weapon are strictly limited to
those that can be justified for such purpose; and

(3) the amount of the chemical weapon or bio-
logical weapon per person at any given time does not
exceed a quantity that under the circumstances is
inconsistent with the purposes not prohibited under
this Act.

(b) EXCLUSION.—

(1) IN GENERAL.—Subsection (a) does not
apply to the retention, ownership, or possession of a
chemical weapon or a biological weapon by an agen-
ey of the United States or a person described in
paragraph (2) pending destruction of the weapon.

(2) COVERED PERSONS.—A person referred to
in paragraph (1) is a member of the Armed Forces
of the United States or any other person if the per-
son is authorized by the head of an agency of the
United States to retain, own, or possess the chemical
weapon.

(c) JURISDICTION.—Conduct prohibited by sub-
section (a) is within the jurisdiction of the United States
if the prohibited conduct—

(1) takes place in the United States; or
(2) takes place outside of the United States and is committed by a national of the United States.

SEC. 113. CIVIL PENALTIES.

(a) Penalty Amount.—Any person that is determined, in accordance with subsection (b), to have violated section 112(a) of this Act shall be required by order to pay a civil penalty in an amount not to exceed $100,000 for each such violation.

(b) Hearing.—

(1) In general.—Before imposing an order described in subsection (a) against a person under this subsection for a violation of section 112(a), the head of the Lead Agency shall provide the person or entity with notice and, upon request made within 15 days of the date of the notice, a hearing respecting the violation.

(2) Conduct of hearing.—Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. If no hearing is so requested, the Attorney General’s imposition of the order shall constitute a final and unappealable order.

(3) Issuance of orders.—If the administrative law judge determines, upon the preponderance
of the evidence received, that a person named in the
complaint has violated section 102, the administra-
tive law judge shall state his findings of fact and
issue and cause to be served on such person an
order described in subsection (a).

(4) FACTORS FOR DETERMINATION OF PEN-
ALTY AMOUNTS.—In determining the amount of any
civil penalty, the administrative law judge shall take
into account the nature, circumstances, extent, and
gravity of the violation or violations and, with re-
spect to the violator, the ability to pay, effect on
ability to continue to do business, any history of
prior such violations, the degree of culpability, the
existence of an internal compliance program, and
such other matters as justice may require.

(e) ADMINISTRATIVE APPELLATE REVIEW.—The de-
cision and order of an administrative law judge shall be-
come the final agency decision and order of the head of
the Lead Agency unless, within 30 days, the head of the
Lead Agency modifies or vacates the decision and order,
with or without conditions, in which case the decision and
order of the head of the Lead Agency shall become a final
order under this subsection. The head of the Lead Agency
may not delegate his authority under this paragraph.
(d) Offsets.—The amount of the civil penalty under a final order of the Lead Agency may be deducted from any sums owed by the United States to the person.

(e) Judicial Review.—A person adversely affected by a final order respecting an assessment may, within 30 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

(f) Enforcement of Orders.—If a person fails to comply with a final order issued under this subsection against the person and if the person does not file a petition for judicial review under subsection (e), the Attorney General shall file a suit to seek compliance with the order in any appropriate district court of the United States, plus interest at currently prevailing rates calculated from the date of expiration of the 30-day period referred to in subsection (e) or the date of such final judgment, as the case may be. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

20 SEC. 114. REGULATORY AUTHORITY; APPLICATION OF OTHER LAWS.

(a) Regulations.—The Lead Agency may issue such regulations as are necessary to implement and enforce this subtitle and to amend or revise such regulations as necessary if such Executive orders, directives, or regu-
lations do not require any person to submit information
or data on any plant site, plant, chemical weapon, or bio-
logical weapon that such person produces, processes, or
consumes for purposes not prohibited by this Act.

(b) ENFORCEMENT.—The Lead Agency may des-
ignate its officers or employees to conduct investigations
pursuant to this Act. In conducting such investigations,
those officers or employees may, to the extent necessary
or appropriate for the enforcement of this subtitle, or for
the imposition of any penalty or liability arising under this
subtitle, exercise such authorities as are conferred upon
them by other laws of the United States.

Subtitle C—Other Penalties

SEC. 121. REVOCATIONS OF EXPORT PRIVILEGES.

(a) IN GENERAL.—If the President determines, after
notice and an opportunity for a hearing in accordance with
section 554 of title 5, United States Code, that any person
within the United States, or any national of the United
States located outside the United States, has committed
any violation of section 112, the President may issue an
order for the suspension or revocation of the authority of
the person to export from the United States any goods
or technology (as such terms are defined in section 16 of
2415)).
(b) REPEAL.—Section 11C of the Export Administra-
tion Act of 1979 (50 U.S.C. app. 2410c), relating to chem-
ical and biological weapons proliferation sanctions, is re-
pealed.

SEC. 122. SUSPENSION OF PATENT RIGHTS.

(a) SUSPENSION.—The term of any patent granted
pursuant to title 35, United States Code, held by any per-
son, including any subsidiary of such person, who know-
ingly violates any provision of section 112 of this Act shall
be suspended for a period of three years.

(b) EFFECT ON PATENT RIGHTS.—

(1) PROHIBITION.—No rights under title 35,
United States Code, shall be derived from any pat-
et described in subsection (a) during the period of
any such suspension.

(2) NO EXTENSION OF PATENT TERM.—Any
suspension of patent rights imposed pursuant to the
provisions of this section shall not extend the term
of any such patent.

(c) PROCEDURES.—

(1) DETERMINATION BY THE COMMISSIONER.—
Within 30 days after the date of enactment of this
Act, the Commissioner of Patents, after a deter-
mination has been made regarding which person or
persons have violated section 112 of this Act, shall
recommend the suspension of the appropriate patents.

(2) Notices of Violations.—The Commissioner shall notify the holder of such patent within 30 days after the date of such determination and shall publish in the Federal Register a notice of such determination, together with the factual and legal basis for such determination.

(3) Hearings.—Any interested person may request, within the 60-day period beginning on the date of publication of a determination, that the Commissioner making the determination hold a hearing on such determination. Such a hearing shall be an informal hearing which is not subject to section 554, 556, or 557 of title 5, United States Code. If such a request is made within such period, the Commissioner shall hold such hearing not later than 30 days after the date of the request, or at the request of the person making the request, not later than 60 days after such date. The Commissioner who is holding the hearing shall provide notice of the hearing to the person involved and to any interested person and provide the owner of record of the patent and any interested person an opportunity to participate in the hearing.
(4) **Final determinations.**—Within 30 days after the completion of the hearing, the Commissioner shall affirm or revise the determination that was the subject of the hearing and shall publish such affirmation or revision in the Federal Register.

(d) **Fees.**—The Commissioner may establish such fees as are appropriate to cover the costs of carrying out his duties and functions under this section.

(e) **Certificate of Suspension.**—The Commissioner shall make the determination that a patent is suspended and that the requirements of subsection (c) have been complied with. If the Commissioner determines that the patent is suspended, the Commissioner shall issue to the owner of record of the patent a certificate of suspension, under seal, stating the length of the suspension, and identifying the product and the statute under which regulatory review occurred. Such certificate shall be recorded in the official file of the patent and shall be considered as part of the original patent. The Commissioner shall publish in the Official Gazette of the Patent and Trademark Office a notice of such suspension.
SEC. 201. SANCTIONS FOR USE OF CHEMICAL OR BIOLOGICAL WEAPONS.

(a) In General.—The Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended by striking chapter 8 and inserting the following:

“CHAPTER 8—SANCTIONS AGAINST USE OF CHEMICAL OR BIOLOGICAL WEAPONS

“SEC. 81. PURPOSE.

“The purpose of this chapter is—

“(1) to provide for the imposition of sanctions against any foreign government—

“(A) that uses chemical or biological weapons in violation of international law; or

“(B) that has used chemical or biological weapons against its own nationals; and

“(2) to ensure that the victims of the use of chemical or biological weapons shall be compensated and awarded punitive damages, as may be determined by courts in the United States.

“SEC. 82. PRESIDENTIAL DETERMINATION.

“(a) Bilateral Sanctions.—Except as provided in subsections (c) and (d), the President shall, after the con-
sultation with Congress, impose the sanctions described in subsections (a) and (b) of section 83 if the President determines that any foreign government—

“(1) has used a chemical weapon or biological weapon in violation of international law; or

“(2) has used a chemical weapon or biological weapon against its own nationals.

“(b) MULTILATERAL SANCTIONS.—The sanctions imposed pursuant to subsection (a) are in addition to any multilateral sanction or measure that may be otherwise agreed.

“(c) PRESIDENTIAL WAIVER.—The President may waive the application of any of the sanctions imposed pursuant to subsection (a) if the President determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that implementing such measures would have a substantial negative impact upon the supreme national interests of the United States.

“(d) SANCTIONS NOT APPLIED TO CERTAIN EXISTING CONTRACTS.—A sanction described in section 83 shall not apply to any activity pursuant to a contract or international agreement entered into before the date of the Presidential determination under subsection (a) if the President determines that performance of the activity
would reduce the potential for the use of a chemical weapon or biological weapon by the sanctioned country.

“SEC. 83. MANDATORY SANCTIONS.

“(a) Minimum Number of Sanctions.—After consultation with Congress and making a determination under section 82 with respect to the actions of a foreign government, the President shall impose not less than 5 of the following sanctions against that government for a period of three years:

“(1) Foreign Assistance.—The United States Government shall terminate assistance under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance and food or other agricultural commodities or products.

“(2) Arms Sales.—The United States Government shall not sell any item on the United States Munitions List and shall terminate sales to that country under this Act of any defense articles, defense services, or design and construction services. Licenses shall not be issued for the export to the sanctioned country of any item on the United States Munitions List, or for commercial satellites.

“(3) Arms Sale Financing.—The United States Government shall terminate all foreign military financing under this Act.
“(4) Denial of United States Government credit or other financial assistance.—The United States Government shall deny any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, including the Export-Import Bank of the United States.

“(5) Export controls.—The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit the export of any goods or technology on that part of the control list established under section 5(c)(1) of that Act, and all other goods and technology under this Act (excluding food and other agricultural commodities and products) as the President may determine to be appropriate.

“(6) Import restrictions.—The President shall issue an order imposing restrictions on the importation into the United States of any service, good, or commodity that is the growth, product, or manufacture of that country.

“(7) Multilateral bank assistance.—The United States shall oppose, in accordance with section 701 of the International Financial Institutions Act, the extension of any loan or financial or tech-
technical assistance by international financial institutions.

“(8) BANK LOANS.—The United States Government shall prohibit any United States bank from making any loan or providing any credit, including to any agency or instrumentality of the government, except for loans or credits for the purpose of purchasing food or other agricultural commodities or products.

“(9) AVIATION RIGHTS.—

“(A) IN GENERAL.—

“(i) NOTIFICATION.—The President is authorized to notify the government of a country with respect to which the President has made a determination pursuant to section 82(a) of his intention to suspend the authority of foreign air carriers owned or controlled by the government of that country to engage in foreign air transportation to or from the United States.

“(ii) SUSPENSION OF AVIATION RIGHTS.—Within 10 days after the date of notification of a government under subclause (I), the Secretary of Transportation shall take all steps necessary to suspend at
the earliest possible date the authority of
any foreign air carrier owned or controlled,
directly or indirectly, by that government
to engage in foreign air transportation to
or from the United States, notwithstanding
any agreement relating to air services.

“(B) Termination of air service
agreements.—

“(i) In general.—The President
may direct the Secretary of State to termi-
nate any air service agreement between the
United States and a country with respect
to which the President has made a deter-
mination pursuant to section 82(a), in ac-
cordance with the provisions of that agree-
ment.

“(ii) Termination of aviation
rights.—Upon termination of an agree-
ment under this clause, the Secretary of
Transportation shall take such steps as
may be necessary to revoke at the earliest
possible date the right of any foreign air
carrier owned, or controlled, directly or in-
directly, by the government of that country
to engage in foreign air transportation to
or from the United States.

“(C) EXCEPTION.—The Secretary of
Transportation may provide for such exceptions
from the sanction contained in subparagraph
(A) as the Secretary considers necessary to pro-
vide for emergencies in which the safety of an
aircraft or its crew or passengers is threatened.

“(D) DEFINITIONS.—For purposes of this
paragraph, the terms ‘aircraft’, ‘air transpor-
tation’, and ‘foreign air carrier’ have the mean-
ings given those terms in section 40102 of title
49, United States Code.

“(10) DIPLOMATIC RELATIONS.—The President
shall use his constitutional authorities to downgrade
or suspend diplomatic privileges between the United
States and that country.

“(b) BLOCKING OF ASSETS.—Upon making a deter-
mination under section 82, the President shall take all
steps necessary to block any transactions in any property
subject to the jurisdiction of the United States in which
the foreign country or any national thereof has any inter-
est whatsoever, for the purpose of compensating the vic-
tims of the chemical or biological weapons use and for pu-
itive damages as may be assessed.
“(c) STATUTORY CONSTRUCTION.—Nothing in this section limits the authority of the President to impose a sanction that is not specified in this section.

“SEC. 84. REMOVAL OF SANCTIONS.

“(a) CERTIFICATION REQUIREMENT.—The President shall remove the sanctions imposed with respect to a foreign government pursuant to this section if the President determines and so certifies to the Congress, after the end of the three-year period beginning on the date on which sanctions were initially imposed on that country pursuant to section 82, that—

“(1) the government of that country has provided reliable assurances that it will not use any chemical weapon or biological weapon in violation of international law and will not use any chemical weapon or biological weapon against its own nationals;

“(2) the government of the country is willing to accept onsite inspections or other reliable measures to verify that the government is not making preparations to use any chemical weapon or biological weapon in violation of international law or to use any chemical weapon or biological weapon against its own nationals; and
“(3) the government of the country is making restitution to those affected by any use of any chemical weapon or biological weapon in violation of international law or against its own nationals.

“(b) Reasons for Determination.—The certification made under this subsection shall set forth the reasons supporting such determination in each particular case.

“(c) Effective Date.—The certification made under this subsection shall take effect on the date on which the certification is received by the Congress.

“SEC. 85. NOTIFICATIONS AND REPORTS OF CHEMICAL OR BIOLOGICAL WEAPONS USE AND APPLICATION OF SANCTIONS.

“(a) Notification.—Not later than 30 days after persuasive information becomes available to the executive branch of Government indicating the substantial possibility of the use of chemical or biological weapons by any person or government, the President shall so notify in writing Congress.

“(b) Report.—Not later than 60 days after making a notification under subsection (a), the President shall submit a report to Congress that contains—

“(1) an assessment by the President in both classified and unclassified form of the circumstances
of the suspected use of chemical or biological weapons, including any determination by the President made under section 82 with respect to a foreign government; and

“(2) a description of the actions the President intends to take pursuant to the assessment, including the imposition of any sanctions or other measures pursuant to section 82.

“(c) PROGRESS REPORT.—Not later than 60 days after submission of a report under subsection (b), the President shall submit a progress report to Congress describing actions undertaken by the President under this chapter, including the imposition of unilateral and multilateral sanctions and other punitive measures, in response to the use of any chemical weapon or biological weapon described in the report.

“(d) RECIPIENTS OF NOTIFICATIONS AND REPORTS.—Any notification or report required by this section shall be submitted to the following:

“(1) The Majority Leader of the Senate and the Speaker of the House of Representatives.

“(2) The Committee on Foreign Relations and the Select Committee on Intelligence of the Senate.
“(3) The Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives.

“SEC. 86. DEFINITIONS.

“In this chapter:

“(1) BIOLOGICAL WEAPON.—The term ‘biological weapon’ means the following, together or separately:

“(A) Any micro-organism (including bacteria, viruses, fungi, rickettsiae or protozoa), pathogen, or infectious substance, or any naturally occurring, bio-engineered or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, capable of causing—

“(i) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

“(ii) deterioration of food, water, equipment, supplies, or materials of any kind; or

“(iii) deleterious alteration of the environment.

“(B) Any munition or device specifically designed to cause death or other harm through
the toxic properties of those biological weapons
specified in subparagraph (A), which would be
released as a result of the employment of such
munition or device.

“(C) Any equipment specifically designed
for use directly in connection with the employ-
ment of munitions or devices specified in this
section.

“(D) Any living organism specifically de-
dsigned to carry a biological weapon specified in
subparagraph (A) to a host.

“(2) CHEMICAL WEAPON.—The term ‘chemical
weapon’ means the following, together or separately:

“(A) Any of the following chemical agents:
tabun, Sarin, Soman, GF, VX, sulfur mustard,
nitrogen mustard, phosgene oxime, lewisite,
phenyldichloroarsine, ethyldichloroarsine,
methyldichloroarsine, phosgene, diphosgene, hy-
drogen cyanide, cyanogen chloride, and arsine.

“(B) Any of the 54 chemicals, other than
a riot control agent, controlled by the Australia
Group as of the date of the enactment of this
Act.

“(C) Any munition or device specifically
designed to cause death or other harm through
the toxic properties of a chemical weapon specified in subparagraph (A) or (B), which would be released as a result of the employment of such munition or device.

“(D) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in this section.

“(3) PERSON.—The term ‘person’ means any individual, corporation, partnership, firm, association, or other legal entity.”.

(b) REPEAL.—Sections 306 through 308 of the Act of December 4, 1991 (Public Law 102–182) are repealed.

SEC. 202. CONTINUATION AND ENHANCEMENT OF MULTILATERAL CONTROL REGIMES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that any collapse of the informal forum of states known as the “Australia Group”, either through changes in membership or lack of compliance with common export controls, or any substantial weakening of common Australia Group export controls and nonproliferation measures in force as of the date of enactment of this Act, would seriously undermine international and national efforts to curb the spread of chemical and biological weapons and related equipment.
(b) POLICY.—It shall be the policy of the United States—

(1) to continue close cooperation with other countries in the Australia Group in support of its current efforts and in devising additional means to monitor and control the supply of chemicals and biological agents applicable to weapons production;

(2) to maintain an equivalent or more comprehensive level of control over the export of toxic chemicals and their precursors, dual-use processing equipment, human, animal and plant pathogens and toxins with potential biological weapons application, and dual-use biological equipment, as that afforded by the Australia Group as of the date of enactment of this Act;

(3) to block any effort by any Australia Group member to achieve Australia Group consensus on any action that would substantially weaken existing common Australia Group export controls and non-proliferation measures or otherwise undermine the effectiveness of the Australia Group; and

(4) to work closely with other countries also capable of supplying equipment, materials, and technology with particular applicability to the production of chemical or biological weapons in order to devise
and harmonize the most effective national controls possible on the transfer of such materials, equipment, and technology.

(c) CERTIFICATION.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the President shall determine and certify to Congress whether—

(1) the Australia Group continues to maintain an equivalent or more comprehensive level of control over the export of toxic chemicals and their precursors, dual-use processing equipment, human, animal, and plant pathogens and toxins with potential biological weapons application, and dual-use biological equipment, as that afforded by the Australia Group as of the date of the last certification under this subsection, or, in the case of the first certification, the level of control maintained as of the date of enactment of this Act; and

(2) the Australia Group remains a viable mechanism for curtailing the spread of chemical and biological weapons-related materials and technology, and whether the effectiveness of the Australia Group has been undermined by changes in membership, lack of compliance with common export controls, or any weakening of common controls and measures.
that are in effect as of the date of enactment of this Act.

(d) Consultations.—

(1) In general.—The President shall consult periodically, but not less frequently than twice a year, with the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives, on Australia Group export controls and nonproliferation measures.

(2) Resulting from Presidential Certification.—If the President certifies that either of the conditions in subsection (c) are not met, the President shall consult within 60 days of such certification with the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives on steps the United States should take to maintain effective international controls on chemical and biological weapons-related materials and technology.

SEC. 203. CRITERIA FOR UNITED STATES ASSISTANCE TO RUSSIA.

(a) In general.—Notwithstanding any other provision of law, United States assistance described in subsection (b) may not be provided to Russia unless the Presi-
dent determines and certifies to Congress not later than
180 days after the date of the enactment of this Act, and
on an annual basis thereafter, that—

(1) Russia is making reasonable progress in the
implementation of the Bilateral Destruction Agree-
ment;

(2) the United States and Russia have resolved,
to the satisfaction of the United States, outstanding
compliance issues under the Wyoming Memorandum
of Understanding and the Bilateral Destruction
Agreement;

(3) Russia has fully and accurately declared all
information regarding its unitary and binary chemi-
cal weapons, chemical weapons production facilities,
other facilities associated with the development of
chemical weapons, and riot control agents; and

(4) Russia is in compliance with its obligations
under the Biological Weapons Convention.

(b) UNITED STATES ASSISTANCE COVERED.—United
States assistance described in this subsection is United
States assistance provided only for the purposes of—

(1) facilitating the transport, storage, safe-
guarding, and elimination of any chemical weapon or
biological weapon or its delivery vehicle;
(2) preventing the proliferation of any chemical
weapon or biological weapon, any component or tech-
nology of such a weapon, or any technology or exper-
tise related to such a weapon;

(3) planning, designing, or construction of any
destruction facility for a chemical weapon or bio logically
weapon; or

(4) supporting any international science and
technology center.

(c) Definitions.—

(1) Bilateral destruction agreement.—
The term “Bilateral Destruction Agreement” means
Agreement Between the United States of America
and the Union of Soviet Socialist Republics on De-
struction and Nonproduction of Chemical Weapons
and on Measures to Facilitate the Multilateral Con-
vention on Banning Chemical Weapons, signed on
June 1, 1990.

(2) Biological weapons convention.—The
term “Biological Weapons Convention” means the
Convention on the Prohibition of the Development,
Production and Stockpiling of Bacteriological (Bio-
logical) and Toxin Weapons and on Their Destruc-
tion, done at Washington, London, and Moscow on
April 10, 1972.
(3) **Wyoming Memorandum of Understanding.**—The term “Wyoming Memorandum of Understanding” means the Memorandum of Understanding Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1989.

(4) **United States Assistance.**—The term “United States assistance” has the meaning given the term in section 481(e)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(4)).

**SEC. 204. REPORT ON THE STATE OF CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION.**

Not later than 180 days after the date of enactment of this Act, and every year thereafter, the President shall submit to the Speaker of the House of Representatives and the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate a report containing the following:

(1) **Proliferation by foreign countries.**—A description of any efforts by China, Egypt, India, Iran, Iraq, Libya, North Korea, Pakistan, Russia, and Syria, and any country that has, during the five
years prior to submission of the report, used any chemical weapon or biological weapon or attempted to acquire the material and technology to produce and deliver chemical or biological agents, together with an assessment of the present and future capability of the country to produce and deliver such agents.

(2) FOREIGN PERSONS ASSISTING IN PROLIFERATION.—An identification of—

(A) those persons that in the past have assisted the government of any country described in paragraph (1) in that effort; and

(B) those persons that continue to assist the government of the country described in paragraph (1) in that effort as of the date of the report.

(3) THIRD COUNTRY ASSISTANCE IN PROLIFERATION.—An assessment of whether and to what degree other countries have assisted any government or country described in paragraph (1) in its effort to acquire the material and technology described in that paragraph.

(4) INTELLIGENCE INFORMATION ON THIRD COUNTRY ASSISTANCE.—A description of any confirmed or credible intelligence or other information
that any country has assisted the government of any
country described in paragraph (1) in that effort, ei-
ther directly or by facilitating the activities of the
persons identified in subparagraph (A) or (B) of
paragraph (3) or had knowledge of the activities of
the persons identified in subparagraph (A) or (B) of
paragraph (3), but took no action to halt or discour-
age such activities.

(5) INTELLIGENCE INFORMATION ON SUB-
NATIONAL GROUPS.—A description of any confirmed
or credible intelligence or other information of the
development, production, stockpiling, or use, of any
chemical weapon or biological weapon by subnational
groups, including any terrorist or paramilitary orga-
nization.

(6) FUNDING PRIORITIES FOR DETECTION AND
MONITORING CAPABILITIES.—An identification of
the priorities of the executive branch of Government
for the development of new resources relating to de-
tection and monitoring capabilities with respect to
chemical weapons and biological weapons.

SEC. 205. INTERNATIONAL CONFERENCE TO STRENGTHEN
THE 1925 GENEVA PROTOCOL.

(a) DEFINITION.—In this section, the term “1925
Geneva Protocol” means the Protocol for the Prohibition
of the Use in War of Asphyxiating, Poisonous or Other
Gases, and of Bacteriological Methods of Warfare, done
at Geneva June 17, 1925 (26 UST 71; TIAS 8061).

(b) POLICY.—It shall be the policy of the United
States—

(1) to work to obtain multilateral agreement to
effective, international enforcement mechanisms to
existing international agreements that prohibit the
use of chemical and biological weapons, to which the
United States is a state party; and

(2) pursuant to paragraph (1), to work to ob-
tain multilateral agreement regarding the collective
imposition of sanctions and other measures de-
scribed in chapter 8 of the Arms Export Control
Act, as amended by this Act.

(e) RESPONSIBILITY.—The Secretary of State shall,
as a priority matter, take steps necessary to achieve Unit-
ed States objectives, as set forth in this section.

(d) SENSE OF THE SENATE.—The Senate urges and
directs the Secretary of State to work to convene an inter-
national negotiating forum for the purpose of concluding
an international agreement on enforcement of the 1925

(e) ALLOCATION OF FUNDS.—Of the amount author-
ized to be appropriated to the Department of State for
fiscal year 1998 under the appropriations account entitled
“International Conferences and Contingencies”,
$5,000,000 shall be available only for payment of salaries
and expenses in connection with efforts of the Secretary
of State to conclude an international agreement described
in subsection (d).

SEC. 206. RESTRICTION ON USE OF FUNDS FOR THE ORGANIZATION FOR THE PROHIBITION OF CHEMICAL WEAPONS.

None of the funds appropriated pursuant to any provision of law, including previously appropriated funds, may be available to make any voluntary or assessed contribution to the Organization for the Prohibition of Chemical Weapons, or to reimburse any account for the transfer of in-kind items to the Organization, unless or until the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature at Paris January 13, 1993, enters into force for the United States.

SEC. 207. ENHANCEMENTS TO ROBUST CHEMICAL AND BIOLOGICAL DEFENSES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the threats posed by chemical and biological weapons to United States Armed Forces deployed in
regions of concern will continue to grow and will un-
dermine United States strategies for the projection
of United States military power and the forward de-
ployment of United States Armed Forces;

(2) the use of chemical or biological weapons
will be a likely condition of future conflicts in re-
gions of concern;

(3) it is essential for the United States and key
regional allies of the United States to preserve and
further develop robust chemical and biological de-
fenses;

(4) the United States Armed Forces, both ac-
tive and nonactive duty, are inadequately equipped,
organized, trained, and exercised for operations in
chemically and biologically contaminated environ-
ments;

(5) the lack of readiness stems from a deem-
phasis by the executive branch of Government and
the United States Armed Forces on chemical and bi-
ological defense;

(6) the armed forces of key regional allies and
likely coalition partners, as well as civilians nec-
essary to support United States military operations,
are inadequately prepared and equipped to carry out
essential missions in chemically and biologically con-
taminated environments;

(7) congressional direction contained in the
1997 Defense Against Weapons of Mass Destruction
Act is intended to lead to enhanced domestic pre-
paredness to protect against the use of chemical and
biological weapons; and

(8) the United States Armed Forces should
place increased emphasis on potential threats to de-
ployed United States Armed Forces and, in particu-
lar, should make countering the use of chemical and
biological weapons an organizing principle for Unit-
ed States defense strategy and for the development
of force structure, doctrine, planning, training, and
exercising policies of the United States Armed
Forces.

(b) DEFENSE READINESS TRAINING.—The Secretary
of Defense shall take those actions that are necessary to
ensure that the United States Armed Forces are capable
of carrying out required military missions in United States
regional contingency plans despite the threat or use of
chemical or biological weapons. In particular, the Sec-
retary of Defense shall ensure that the United States
Armed Forces are effectively equipped, organized, trained,
and exercised (including at the large unit and theater
level) to conduct operations in chemically and biologically contaminated environments that are critical to the success of United States military plans in regional conflicts, including—

(1) deployment, logistics, and reinforcement operations at key ports and airfields;

(2) sustained combat aircraft sortie generation at critical regional airbases; and

(3) ground force maneuvers of large units and divisions.

c) Discussions With Allied Countries on Readiness.—

(1) High-priority Joint Responsibility of Secretaries of Defense and State.—The Secretary of Defense and the Secretary of State shall give a high priority to discussions with key regional allies and likely regional coalition partners, including those countries where the United States currently deploys forces, where United States forces would likely operate during regional conflicts, or which would provide civilians necessary to support United States military operations, to determine what steps are necessary to ensure that allied and coalition forces and other critical civilians are adequately
equipped and prepared to operate in chemically and biologically contaminated environments.

(2) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense and the Secretary of State shall jointly submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate and to the Speaker of the House of Representatives a report describing—

(A) the results of the discussions held under paragraph (1) and plans for future discussions;

(B) the measures agreed to improve the preparedness of foreign armed forces and civilians; and

(C) any proposals for increased military assistance, including assistance provided through—

(i) the sale of defense articles and defense services under the Arms Export Control Act;

(ii) the Foreign Military Financing program under section 23 of that Act; and

(iii) chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to
international military education and training).

(d) **United States Army Chemical School.**—

(1) **Command of School.**—The Secretary of Defense shall take those actions that are necessary to ensure that the United States Army Chemical School remains under the oversight of a general officer of the United States Army.

(2) **Sense of Congress.**—It is the sense of Congress that—

(A) the transfer, consolidation, and reorganization of the United States Army Chemical School should not disrupt or diminish the training and readiness of the United States Armed Forces to fight in a chemical-biological warfare environment; and

(B) the Army should continue to operate the Chemical Defense Training Facility at Fort McClellan until such time as the replacement facility at Fort Leonard Wood is functional.

(e) **Report.**—

(1) **In general.**—Not later than 180 days after the date of enactment of this Act, and on January 1 every year thereafter, the President shall submit a report to the Committee on Foreign Rela-
tions, the Committee on Armed Services, and the
Committee on Appropriations of the Senate and the
Committee on International Relations, the Commit-
tee on National Security, and the Committee on Ap-
propriations of the House of Representatives, and
the Speaker of the House of Representatives on pre-
vious, current, and planned chemical and biological
weapons defense activities of the United States
Armed Forces.

(2) CONTENT OF REPORT.—Each report re-
quired by paragraph (1) shall include the following
information for the previous fiscal year and for the
next three fiscal years:

(A) ENHANCEMENT OF DEFENSE AND
READINESS.—Proposed solutions to each of the
deficiencies in chemical and biological warfare
defenses identified in the March 1996 General
Accounting Office Report, titled “Chemical and
Biological Defense: Emphasis Remains Insuffi-
cient to Resolve Continuing Problems”, and
steps being taken pursuant to subsection (b) to
ensure that the United States Armed Forces
are capable of conducting required military op-
erations to ensure the success of United States
regional contingency plans despite the threat or
use of chemical or biological weapons.

(B) PRIORITIES.—An identification of pri-
orities of the executive branch of Government in
the development of both active and passive de-
fenses against the use of chemical and bio-
logical weapons.

(C) RDT&E AND PROCUREMENT OF DE-
fENSES.—A detailed summary of all budget ac-
tivities associated with the research, develop-
ment, testing, and evaluation, and procurement
of chemical and biological defenses, set forth by
fiscal year, program, department, and agency.

(D) VACCINE PRODUCTION AND STOCKS.—
A detailed assessment of current and projected
vaccine production capabilities and vaccine
stocks, including progress in researching and
developing a multivalent vaccine.

(E) DECONTAMINATION OF INFRASTRUC-
TURE AND INSTALLATIONS.—A detailed assess-
ment of procedures and capabilities necessary
to protect and decontaminate infrastructure
and installations that support the ability of the
United States to project power through the use
of its Armed Forces, including progress in de-
veloping a nonaqueous chemical decontamination capability.

(F) PROTECTIVE GEAR.—A description of the progress made in procuring lightweight personal protective gear and steps being taken to ensure that programmed procurement quantities are sufficient to replace expiring battledress overgarments and chemical protective overgarments to maintain required wartime inventory levels.

(G) DETECTION AND IDENTIFICATION CAPABILITIES.—A description of the progress made in developing long-range standoff detection and identification capabilities and other battlefield surveillance capabilities for biological and chemical weapons, including progress on developing a multichemical agent detector, unmanned aerial vehicles, and unmanned ground sensors.

(H) THEATER MISSILE DEFENSES.—A description of the progress made in developing and deploying layered theater missile defenses for deployed United States Armed Forces which will provide greater geographic coverage against current and expected ballistic missile threats.
and will assist the mitigation of chemical and
biological contamination through higher altitude
intercepts and boost-phase intercepts.

(I) Training and Readiness.—An as-
seessment of the training and readiness of the
United States Armed Forces to operate in
chemically and biologically contaminated envi-
ronments and actions taken to sustain training
and readiness, including at national combat
training centers.

(J) Military Exercises.—A description
of the progress made in incorporating consider-
ation about the threat or use of chemical and
biological weapons into service and joint exer-
cises as well as simulations, models, and
wargames, together with the conclusions drawn
from these efforts about the United States ca-
pability to carry out required missions, includ-
ing with coalition partners, in military contin-
gencies.

(K) Military Doctrine.—A description
of the progress made in developing and imple-
menting service and joint doctrine for combat
and noncombat operations involving adversaries
armed with chemical or biological weapons, in-
including efforts to update the range of service
and joint doctrine to better address the wide
range of military activities, including deploy-
ment, reinforcement, and logistics operations in
support of combat operations, and for the con-
duct of such operations in concert with coalition
forces.

(L) **Defense of Civilian Population.**—
A description of the progress made in resolving
issues relating to the protection of United
States population centers from chemical and bi-
ological attack and from the consequences of
such an attack, including plans for inoculation
of populations, consequence management, and
progress made in developing and deploying ef-
fective cruise missile defenses and a national
ballistic missile defense.

**SEC. 208. NEGATIVE SECURITY ASSURANCES.**

(a) **Sense of Congress.**—It is the sense of Con-
gress that in order to achieve an effective deterrence
against attacks of the United States and United States
Armed Forces by chemical weapons, the President should
reevaluate the extension of negative security assurances
by the United States to nonnuclear-weapon states in the
context of the Treaty on the Non-Proliferation of Nuclear
Weapons.

(b) REPORT.—Not later than 180 days after the date
of the enactment of this Act, the President shall submit
to the Committee on Armed Services and the Committee
on Foreign Relations of the Senate and to the Speaker
of the House of Representatives a report, both in classified
and unclassified forms, setting forth—

(1) the findings of a detailed review of United
States policy on negative security assurances as a
deterrence strategy; and

(2) a determination by the President of the ap-
propriate range of nuclear and conventional re-
sponses to the use of chemical or biological weapons
against the United States Armed Forces, United
States citizens, allies, and third parties.

(c) DEFINITIONS.—In this section:

(1) NEGATIVE SECURITY ASSURANCES.—The
term “negative security assurances” means the as-
surances provided by the United States to non-
nuclear-weapon states in the context of the Treaty
on the Non-Proliferation of Nuclear Weapons (21
UST 483) that the United States will forswear the
use of certain weapons unless the United States is
attacked by that nonnuclear-weapon state in alliance
with a nuclear-weapon state.

(2) NONNUCLEAR-WEAPON STATES.—The term
“nonnuclear-weapon states” means states that are
not nuclear-weapon states (as defined in Article
IX(3) of the Treaty on the Non-Proliferation of Nu-
clear Weapons, done at Washington, London, and
Moscow July 1, 1968 (21 UST 483).

SEC. 209. RIOT CONTROL AGENTS.

(a) PROHIBITION.—The President shall not issue any
order or directive that diminishes, abridges, or alters the
right of the United States to use riot control agents—

(1) in any circumstance not involving inter-
national armed conflict; or

(2) in a defensive military mode to save lives in
an international armed conflict, as provided for in
Executive Order No. 11850 of April 9, 1975.

(b) CIRCUMSTANCES NOT INVOLVING INTER-
nATIONAL ARMED CONFLICT.—The use of riot control
agents under subsection (a)(1) includes the use of such
agents in—

(1) peacekeeping or peace support operations;

(2) humanitarian or disaster relief operations;

(3) noncombatant evacuation operations;
(4) counterterrorist operations and the rescue of hostages; and

(5) law enforcement operations and other internal conflicts.

(c) DEFENSIVE MILITARY MODE.—The use of riot control agents under subsection (a)(2) may include the use of such agents—

(1) in areas under direct and distinct United States military control, including the use of such agents for the purposes of controlling rioting or escaping enemy prisoners of war;

(2) to protect personnel or material from civil disturbances, terrorists, and paramilitary organizations;

(3) to minimize casualties during rescue missions of downed air crews and passengers, prisoners of war, or hostages;

(4) in situations where combatants and noncombatants are intermingled; and

(5) in support of base defense, rear area operations, noncombatant evacuation operations, and operations to protect or recover nuclear weapons.

(d) SENSE OF CONGRESS.—It is the sense of Congress that international law permits the United States to use herbicides, under regulations applicable to their do-
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1 mestic use, for control of vegetation within United States
2 bases and installations or around their immediate defen-
3 sive perimeters.
4  (e) AUTHORITY OF THE PRESIDENT.—The President
5 shall take all necessary measures, and prescribe such rules
6 and regulations as may be necessary, to ensure that the
7 policy contained in this section is observed by the Armed
8 Forces of the United States.