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IN THE HOUSE OF REPRESENTATIVES

OCTOBER 21, 1998

Referred to the Committee on the Judiciary, and in addition to the Committee on International Relations, Banking and Financial Services, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

AN ACT

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,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Chemical and Biological Weapons Threat Reduction Act
6 of 1997”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 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 SUBJECT TO
 THE JURISDICTION OF THE UNITED STATES

Subtitle A—Criminal and Civil Penalties

Sec. 101. Criminal and civil provisions.

Subtitle B—Revocations of Export Privileges

Sec. 111. Revocations of export privileges.

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 relating to the elimination of chemical and biological weapons.
 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.

3 **SEC. 2. FINDINGS.**

4 The Congress finds that—

5 (1) the United States eliminated its stockpile of
 6 biological weapons pursuant to the 1972 Biological
 7 Weapons Convention and has pledged to destroy its
 8 entire inventory of chemical weapons by 2004, inde-
 9 pendent of the Chemical Weapons Convention enter-
 10 ing into force;

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

4 (3) United Nations Security Council Resolution
5 620, adopted on August 26, 1988, states the inten-
6 tion of the Security Council to consider immediately
7 “appropriate and effective” sanctions against any
8 nation using chemical and biological weapons in vio-
9 lation of international law;

10 (4) the General Agreement on Tariffs and
11 Trade recognizes that national security concerns
12 may serve as legitimate grounds for limiting trade;
13 title XXI of the General Agreement on Tariffs and
14 Trade states that “nothing in this Agreement shall
15 be construed . . . to prevent any contracting party
16 from taking any action which it considers necessary
17 for the protection of its essential security inter-
18 ests. . .”;

19 (5) on September 30, 1993, the President de-
20 clared by Executive Order No. 12868 a national
21 emergency to deal with “the unusual and extraor-
22 dinary threat to the national security, foreign policy,
23 and economy of the United States” posed by the
24 proliferation of nuclear, biological and chemical

1 weapons, and of the means for delivering such weap-
2 ons;

3 (6) Russia has not implemented the 1990
4 United States-Russian Bilateral Agreement on De-
5 struction and Non-Production of Chemical Weapons
6 and on Measures to Facilitate the Multilateral Con-
7 vention on Banning Chemical Weapons, known as
8 the “BDA”, nor has the United States and Russia
9 resolved, to the satisfaction of the United States, the
10 outstanding compliance issues under the Memoran-
11 dum of Understanding Between the United States of
12 America and the Government of the Union of Soviet
13 Socialist Republics Regarding a Bilateral Verifica-
14 tion Experiment and Data Exchange Related To
15 Prohibition on Chemical Weapons, known as the
16 “1989 Wyoming MOU”;

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

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

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

5 (10) the grave new threat of chemical and bio-
6 logical terrorism has been demonstrated by the 1995
7 nerve gas attack on the Tokyo subway by the Japa-
8 nese cult Aum Shinrikyo;

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

13 (12) the Department of Defense, in light of
14 growing chemical and biological threats in regions of
15 key concern, including Northeast Asia, and the Mid-
16 dle East, has stated that United States forces must
17 be properly trained and equipped for all missions, in-
18 cluding those in which opponents might threaten use
19 of chemical or biological weapons; and

20 (13) Australia Group controls on the exports of
21 chemical and biological agents, and related equip-
22 ment, and the Missile Technology Control Regime,
23 together provide an indispensable foundation for
24 international and national efforts to curb the spread

1 of chemical and biological weapons, and their deliv-
2 ery means.

3 **SEC. 3. POLICY.**

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

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

11 (2) discourage the proliferation of chemical and
12 biological weapons, their means of delivery, and re-
13 lated equipment, material, and technology;

14 (3) prohibit within the United States the devel-
15 opment, production, acquisition, stockpiling, posses-
16 sion, and transfer to third parties of chemical or bio-
17 logical weapons, their precursors and related tech-
18 nology; and

19 (4) impose unilateral sanctions, and seek imme-
20 diately international sanctions, against any nation
21 using chemical and biological weapons in violation of
22 international law.

23 **SEC. 4. DEFINITIONS.**

24 In this Act:

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

11 (2) BIOLOGICAL WEAPON.—The term “biologi-
12 cal weapon” means the following, together or sepa-
13 rately:

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

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

24 (ii) deterioration of food, water, equip-
25 ment, supplies, or materials of any kind; or

1 (iii) deleterious alteration of the envi-
2 ronment.

3 (B) Any munition or device specifically de-
4 signed to cause death or other harm through
5 the release, dissemination, or impact of the
6 toxic or poisonous properties of those biological
7 weapons specified in subparagraph (A).

8 (C) Any equipment specifically designed
9 for use directly in connection with the employ-
10 ment of munitions or devices specified in sub-
11 paragraph (B).

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

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

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

23 (B) Any of the 54 chemicals other than a
24 riot control agent that is controlled by the Aus-

1 tralia Group as of the date of the enactment of
2 this Act.

3 (C) Any other chemical agent that may be
4 developed if the use of the agent would be in-
5 tended to produce an effect consistent with that
6 of a chemical agent or other chemical described
7 in subparagraph (A) or (B).

8 (D) Any munition or device specifically de-
9 signed to cause death or other harm through
10 the release, dissemination, or impact of the
11 toxic or poisonous properties of a chemical
12 weapon specified in subparagraph (A), (B), or
13 (C).

14 (E) Any equipment specifically designed
15 for use directly in connection with the employ-
16 ment of munitions or devices specified in sub-
17 paragraph (D).

18 (4) KNOWINGLY.—The term “knowingly” is
19 used within the meaning of “knowing” as that term
20 is defined in section 104 of the Foreign Corrupt
21 Practices Act of 1977 (15 U.S.C. 78dd–2).

22 (5) NATIONAL OF THE UNITED STATES.—The
23 term “national of the United States” has the same
24 meaning given such term in section 101(a)(22) of

1 the Immigration and Nationality Act (8 U.S.C.
2 1101(a)(22)).

3 (6) PERSON.—The term “person” means any
4 individual, corporation, partnership, firm, associa-
5 tion, or other legal entity.

6 (7) RIOT CONTROL AGENT.—The term “riot
7 control agent” means any substance, including
8 diphenylchloroarsine, diphenylcyanoarsine, adamsite,
9 chloroacetophenone, chloropicrin, bromobenzyl cya-
10 nide, 0-chlorobenzylidene malononitrile, or 3-
11 Quinuclidinyl benzilate, that is designed or used to
12 produce rapidly in humans any nonlethal sensory ir-
13 ritation or disabling physical effect that disappears
14 within a short time following termination of expo-
15 sure.

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

22 (A) any of the places within the provisions
23 of paragraph (41) of section 40102 of title 49,
24 United States Code;

1 (B) any civil aircraft or public aircraft of
 2 the United States, as such terms are defined in
 3 paragraphs (18) and (36) of section 40102 of
 4 title 49, United States Code; and

5 (C) any vessel of the United States, as
 6 such term is defined in section 3(b) of the Mar-
 7 itime Drug Enforcement Act, as amended (46
 8 U.S.C., App. sec. 1903(b)).

9 **TITLE I—PENALTIES FOR UN-**
 10 **LAWFUL ACTIVITIES SUBJECT**
 11 **TO THE JURISDICTION OF**
 12 **THE UNITED STATES**
 13 **Subtitle A—Criminal and Civil**
 14 **Penalties**

15 **SEC. 101. CRIMINAL AND CIVIL PROVISIONS.**

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

19 **“CHAPTER 11B—CHEMICAL AND**
 20 **BIOLOGICAL WEAPONS**

“Sec.

“229. Prohibited activities.

“229A. Penalties.

“229B. Criminal forfeitures; destruction of weapons.

“229C. Other prohibitions.

“229D. Injunctions.

“229E. Requests for military assistance to enforce prohibition in certain emer-
 gencies.

“229F. Definitions.

1 **“§ 229. Prohibited activities.**

2 “(a) UNLAWFUL CONDUCT.—Except as provided in
3 subsections (b) and (c), it shall be unlawful for any person
4 knowingly—

5 “(1) to develop, produce, otherwise acquire,
6 transfer, directly or indirectly, receive, stockpile, re-
7 tain, own, possess, or use, or threaten to use, any
8 chemical weapon or any biological weapon; or

9 “(2) to assist or induce, in any way, any person
10 to violate paragraph (1), or to attempt or conspire
11 to violate paragraph (1).

12 “(b) EXEMPTED CONDUCT.—Subsection (a) does not
13 apply to conduct that satisfies the following requirements
14 of both paragraphs (1) and (2):

15 “(1) LAWFUL PURPOSE.—The chemical weapon
16 or biological weapon is intended for any of the fol-
17 lowing purposes:

18 “(A) PEACEFUL PURPOSES.—Any peaceful
19 purpose related to an industrial, agricultural,
20 research, medical, or pharmaceutical activity or
21 other activity.

22 “(B) PROTECTIVE PURPOSES.—Any pur-
23 pose directly related to protection against a
24 chemical or biological weapon.

25 “(C) UNRELATED MILITARY PURPOSES.—
26 Any military purpose of the United States that

1 is not connected with the use of a chemical
2 weapon or biological weapon or that is not de-
3 pendent on the use of the toxic or poisonous
4 properties of the chemical weapon or biological
5 weapon to cause death or other harm.

6 “(D) LAW ENFORCEMENT PURPOSES.—
7 Any law enforcement purpose, including any do-
8 mestic riot control purpose.

9 “(E) INDIVIDUAL SELF-DEFENSE PUR-
10 POSES.—Any individual self-defense purpose in-
11 volving a pepper spray or chemical mace.

12 “(2) LIMITATION ON TYPE AND QUANTITY.—

13 “(A) IN GENERAL.—The type and quantity
14 of the chemical weapon or biological weapon is
15 strictly limited to the type and quantity that
16 can be justified for the purpose intended under
17 paragraph (1).

18 “(B) EXCESSIVE QUANTITIES PER PER-
19 SON.—The requirement of this paragraph is not
20 satisfied if the quantity per person at any given
21 time is, under the circumstances, inconsistent
22 with the purpose intended under paragraph (1).

23 “(c) EXEMPTED AGENCIES AND PERSONS.—

24 “(1) IN GENERAL.—Subsection (a) does not
25 apply to the retention, ownership, possession, trans-

1 fer, or receipt of a chemical weapon or a biological
2 weapon by a department, agency, or other entity of
3 the United States, or by a person described in para-
4 graph (2), pending destruction of the weapon.

5 “(2) EXEMPTED PERSONS.—A person referred
6 to in paragraph (1) is—

7 “(A) a member of the Armed Forces of the
8 United States or any other person that is au-
9 thorized by law or by an appropriate officer of
10 the United States to retain, own, possess,
11 transfer, or receive the chemical or biological
12 weapon; or

13 “(B) in an emergency situation, any other
14 person if the person is attempting to destroy or
15 seize the weapon or if the person is a victim of
16 the use of the weapon.

17 “(d) JURISDICTION.—Conduct prohibited by sub-
18 section (a) is within the jurisdiction of the United States
19 if the prohibited conduct—

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

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

23 “(3) is committed against a national of the
24 United States while the national is outside the
25 United States; or

1 “(4) is committed against any property that is
2 owned, leased, or used by the United States or by
3 any department or agency of the United States,
4 whether the property is within or outside the United
5 States.

6 **“§ 229A. Penalties**

7 “(a) CRIMINAL PENALTIES.—

8 “(1) IN GENERAL.—Any person who violates
9 section 229 of this title shall be fined under this
10 title, or imprisoned for any term of years, or both.

11 “(2) DEATH PENALTY.—Any person who vio-
12 lates section 229 of this title and by whose action
13 the death of another person is the result shall be
14 punished by death or imprisoned for life.

15 “(b) CIVIL PENALTIES.—

16 “(1) IN GENERAL.—The Attorney General may
17 bring a civil action in the appropriate United States
18 district court against any person who violates section
19 229 of this title and, upon proof of such violation by
20 a preponderance of the evidence, such person shall
21 be subject to pay a civil penalty in an amount not
22 to exceed \$100,000 for each such violation.

23 “(2) RELATION TO OTHER PROCEEDINGS.—The
24 imposition of a civil penalty under this subsection
25 does not preclude any other criminal or civil statu-

1 tory, common law, or administrative remedy, which
2 is available by law to the United States or any other
3 person.

4 “(c) REIMBURSEMENT OF COSTS.—The court shall
5 order any person convicted of an offense under subsection
6 (a) to reimburse the United States for any expenses in-
7 curred by the United States incident to the seizure, stor-
8 age, handling, transportation, and destruction or other
9 disposition of any property that was seized in connection
10 with an investigation of the commission of the offense by
11 that person. A person ordered to reimburse the United
12 States for expenses under this subsection shall be jointly
13 and severally liable for such expenses with each other per-
14 son, if any, who is ordered under this subsection to reim-
15 burse the United States for the same expenses.

16 **“§ 229B. Criminal forfeitures; destruction of weapons**

17 “(a) PROPERTY SUBJECT TO CRIMINAL FORFEIT-
18 URE.—Any person convicted under section 229A(a) shall
19 forfeit to the United States irrespective of any provision
20 of State law—

21 “(1) any property, real or personal, involved in
22 the offense, including any chemical weapon or bio-
23 logical weapon;

1 “(2) any property constituting, or derived from,
2 and proceeds the person obtained, directly or indi-
3 rectly, as the result of such violation; and

4 “(3) any of the person’s property used, or in-
5 tended to be used, in any manner or part, to com-
6 mit, or to facilitate the commission of, such viola-
7 tion.

8 The court, in imposing sentence on such person, shall
9 order, in addition to any other sentence imposed pursuant
10 to section 229A(a), that the person forfeit to the United
11 States all property described in this subsection. In lieu of
12 a fine otherwise authorized by section 229A(a), a defend-
13 ant who derived profits or other proceeds from an offense
14 may be fined not more than twice the gross profits or
15 other proceeds.

16 “(b) PROCEDURES.—Property subject to forfeiture
17 under this section, any seizure and disposition thereof, and
18 any administrative or judicial proceeding in relation there-
19 to, shall be governed by subsections (b) through (p) of sec-
20 tion 413 of the Comprehensive Drug Abuse Prevention
21 and Control Act of 1970 (21 U.S.C. 853), except that any
22 reference under those subsections to—

23 “(1) ‘this subchapter or subchapter II’ shall be
24 deemed to be a reference to section 229A(a); and

1 “(2) ‘subsection (a)’ shall be deemed to be a
2 reference to subsection (a) of this section.

3 “(c) DESTRUCTION OR OTHER DISPOSITION.—The
4 Attorney General shall provide for the destruction or other
5 appropriate disposition of any chemical or biological weap-
6 on seized and forfeited pursuant to this section.

7 “(d) ASSISTANCE.—The Attorney General may re-
8 quest the head of any agency of the United States to assist
9 in the handling, storage, transportation, or destruction of
10 property seized under this section.

11 **“§ 229C. Other prohibitions**

12 “(a) IN GENERAL.—Whoever knowingly uses riot
13 control agents as an act of terrorism, or knowingly assists
14 any person to do so, shall be fined under this title or im-
15 prisoned for a term of not more than 10 years, or both.

16 “(b) JURISDICTION.—Conduct prohibited by this sec-
17 tion is within the jurisdiction of the United States if the
18 prohibited conduct—

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

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

22 “(3) is committed against a national of the
23 United States while the national is outside the
24 United States; or

1 “(4) is committed against any property that is
2 owned, leased, or used by the United States or by
3 any department or agency of the United States,
4 whether the property is within or outside the United
5 States.

6 **“§ 229D. Injunctions**

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

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

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

14 **“§ 229E. Requests for military assistance to enforce**
15 **prohibition in certain emergencies**

16 “The Attorney General may request the Secretary of
17 Defense to provide assistance under section 382 of title
18 10 in support of Department of Justice activities relating
19 to the enforcement of section 229 of this title in an emer-
20 gency situation involving a biological weapon or chemical
21 weapon. The authority to make such a request may be
22 exercised by another official of the Department of Justice
23 in accordance with section 382(f)(2) of title 10.

24 **“§ 229F. Definitions**

25 “In this chapter:

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

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

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

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

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

4 “(iii) deleterious alteration of the en-
5 vironment.

6 “(B) Any munition or device specifically
7 designed to cause death or other harm through
8 the release, dissemination, or impact of the
9 toxic or poisonous properties of those biological
10 weapons specified in subparagraph (A).

11 “(C) Any equipment specifically designed
12 for use directly in connection with the employ-
13 ment of munitions or devices specified in sub-
14 paragraph (B).

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

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

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

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

5 “(C) Any other chemical agent that may
6 be developed if the use of the agent would be
7 intended to produce an effect consistent with
8 that of a chemical agent or other chemical de-
9 scribed in subparagraph (A) or (B).

10 “(D) Any munition or device specifically
11 designed to cause death or other harm through
12 the release, dissemination, or impact of the
13 toxic or poisonous properties of a chemical
14 weapon specified in subparagraph (A), (B), or
15 (C).

16 “(E) Any equipment specifically designed
17 for use directly in connection with the employ-
18 ment of munitions or devices specified in sub-
19 paragraph (D).

20 “(4) KNOWINGLY.—The term ‘knowingly’ is
21 used within the meaning of ‘knowing’ as that term
22 is defined in section 104 of the Foreign Corrupt
23 Practices Act of 1977 (15 U.S.C. 78dd–2).

24 “(5) NATIONAL OF THE UNITED STATES.—The
25 term ‘national of the United States’ has the same

1 meaning given such term in section 101(a)(22) of
2 the Immigration and Nationality Act (8 U.S.C.
3 1101(a)(22)).

4 “(6) PERSON.—The term ‘person’ means any
5 individual, corporation, partnership, firm, associa-
6 tion, or other legal entity.

7 “(7) RIOT CONTROL AGENT.—The term ‘riot
8 control agent’ means any substance, including
9 diphenylchloroarsine, diphenylcyanoarsine, adamsite,
10 chloroacetophenone, chloropicrin, bromobenzyl cya-
11 nide, 0-chlorobenzylidene malononitrile, or 3-
12 Quinucridinyl benzilate that is designed or used to
13 produce rapidly in humans any nonlethal sensory ir-
14 ritation or disabling physical effect that disappears
15 within a short time following termination of expo-
16 sure.

17 “(8) TERRORISM.—The term ‘terrorism’ means
18 activities that—

19 “(A) involve violent acts or acts dangerous
20 to human life that are a violation of the crimi-
21 nal laws of the United States or of any State,
22 or that would be a criminal violation if commit-
23 ted within the jurisdiction of the United States
24 or of any State; and

25 “(B) appear to be intended—

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

3 “(ii) to influence the policy of a gov-
4 ernment by intimidation or coercion; or

5 “(iii) to affect the conduct of a gov-
6 ernment by assassination or kidnapping.

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

13 “(A) any of the places within the provi-
14 sions of section 40102(41) of title 49, United
15 States Code;

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

20 “(C) any vessel of the United States, as
21 such term is defined in section 3(b) of the Mar-
22 itime Drug Law Enforcement Act (46 U.S.C.
23 App. 1903(b)).”.

24 (b) CONFORMING AMENDMENTS.—

1 (1) WEAPONS OF MASS DESTRUCTION.—Section
 2 2332a of title 18, United States Code, is amended—

3 (A) by striking “§ 2332a. Use of weap-
 4 ons of mass destruction” and inserting
 5 “§ 2332a. Use of certain weapons of
 6 mass destruction”;

7 (B) in subsection (a), by striking “, includ-
 8 ing any biological agent, toxin, or vector (as
 9 those terms are defined in section 178)” and in-
 10 serting “other than a chemical weapon or bio-
 11 logical weapon (as those terms are defined in
 12 section 229F)”;

13 (C) in subsection (b), by inserting “(other
 14 than a chemical weapon or biological weapon
 15 (as those terms are defined in section 229F))”
 16 after “weapon of mass destruction”.

17 (2) TABLE OF CHAPTERS.—The table of chap-
 18 ters for part I of title 18, United States Code, is
 19 amended—

20 (A) by striking the item relating to chapter
 21 10; and

22 (B) by inserting after the item for chapter
 23 11A the following new item:

“11B. Chemical and Biological Weapons 229”.

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

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

3 (2) Section 2332c of title 18, United States
4 Code, relating to chemical weapons.

5 (3) In the table of sections for chapter 113B of
6 title 18, United States Code, the item relating to
7 section 2332c.

8 **Subtitle B—Revocations of Export**
9 **Privileges**

10 **SEC. 111. REVOCATIONS OF EXPORT PRIVILEGES.**

11 If the President determines, after notice and an op-
12 portunity for a hearing in accordance with section 554 of
13 title 5, United States Code, that any person within the
14 United States, or any national of the United States lo-
15 cated outside the United States, has committed any viola-
16 tion of section 229 of title 18, United States Code, the
17 President may issue an order for the suspension or revoca-
18 tion of the authority of the person to export from the
19 United States any goods or technology (as such terms are
20 defined in section 16 of the Export Administration Act
21 of 1979 (50 U.S.C. App. 2415)).

1 **TITLE II—FOREIGN RELATIONS**
2 **AND DEFENSE-RELATED PRO-**
3 **VISIONS**

4 **SEC. 201. SANCTIONS FOR USE OF CHEMICAL OR BIOLOGI-**
5 **CAL WEAPONS.**

6 Title III of the Chemical and Biological Weapons
7 Control and Warfare Elimination Act of 1991 (title III
8 of Public Law 102–182) is amended—

9 (1) by redesignating section 309 as section 312;

10 and

11 (2) by striking sections 306 through 308 and
12 inserting the following new sections:

13 **“SEC. 306. PURPOSE.**

14 “The purpose of sections 306 through 311 is—

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

17 “(A) that has used chemical or biological
18 weapons in violation of international law; or

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

21 “(2) to ensure that the victims of the use of
22 chemical or biological weapons shall be compensated
23 and awarded punitive damages, as may be deter-
24 mined.

1 **“SEC. 307. PRESIDENTIAL DETERMINATION.**

2 “(a) BILATERAL SANCTIONS.—Except as provided in
3 subsections (c) and (d), the President shall, after the con-
4 sultation with Congress, impose the sanctions described in
5 subsections (a) and (b) of section 308 if the President de-
6 termines that any foreign government—

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

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

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

15 “(c) PRESIDENTIAL WAIVER.—The President may
16 waive the application of any of the sanctions imposed pur-
17 suant to subsection (a) if the President determines and
18 certifies in writing to the Speaker of the House of Rep-
19 resentatives and the Committee on Foreign Relations of
20 the Senate that implementing such measures would have
21 a substantial negative impact upon the supreme national
22 interests of the United States.

23 “(d) SANCTIONS NOT APPLIED TO CERTAIN EXIST-
24 ING CONTRACTS.—A sanction described in section 308
25 shall not apply to any activity pursuant to a contract or
26 international agreement entered into before the date of the

1 Presidential determination under subsection (a) if the
 2 President determines that performance of the activity
 3 would reduce the potential for the use of a chemical weap-
 4 on or biological weapon by the sanctioned country.

5 **“SEC. 308. MANDATORY SANCTIONS.**

6 “(a) MINIMUM NUMBER OF SANCTIONS.—After con-
 7 sultation with Congress and making a determination
 8 under section 307 with respect to the actions of a foreign
 9 government, the President shall impose not less than 5
 10 of the following sanctions against that government for a
 11 period of three years:

12 “(1) FOREIGN ASSISTANCE.—The United
 13 States Government shall terminate assistance under
 14 the Foreign Assistance Act of 1961, except for ur-
 15 gent humanitarian assistance and food or other agri-
 16 cultural commodities or products.

17 “(2) ARMS SALES.—The United States Govern-
 18 ment shall not sell any item on the United States
 19 Munitions List and shall terminate sales to that
 20 country under this Act of any defense articles, de-
 21 fense services, or design and construction services.
 22 Licenses shall not be issued for the export to the
 23 sanctioned country of any item on the United States
 24 Munitions List, or for commercial satellites.

1 “(3) ARMS SALE FINANCING.—The United
2 States Government shall terminate all foreign mili-
3 tary financing under this Act.

4 “(4) DENIAL OF UNITED STATES GOVERNMENT
5 CREDIT OR OTHER FINANCIAL ASSISTANCE.—The
6 United States Government shall deny any credit,
7 credit guarantees, or other financial assistance by
8 any department, agency, or instrumentality of the
9 United States Government, including the Export-Im-
10 port Bank of the United States.

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

19 “(6) MULTILATERAL BANK ASSISTANCE.—The
20 United States shall oppose, in accordance with sec-
21 tion 701 of the International Financial Institutions
22 Act, the extension of any loan or financial or tech-
23 nical assistance by international financial institu-
24 tions.

1 “(7) BANK LOANS.—The United States Govern-
 2 ment shall prohibit any United States bank from
 3 making any loan or providing any credit, including
 4 to any agency or instrumentality of the government,
 5 except for loans or credits for the purpose of pur-
 6 chasing food or other agricultural commodities or
 7 products.

8 “(8) AVIATION RIGHTS.—

9 “(A) IN GENERAL.—

10 “(i) NOTIFICATION.—The President is
 11 authorized to notify the government of a
 12 country with respect to which the Presi-
 13 dent has made a determination pursuant
 14 to section 307(a) of his intention to sus-
 15 pend the authority of foreign air carriers
 16 owned or controlled by the government of
 17 that country to engage in foreign air trans-
 18 portation to or from the United States.

19 “(ii) SUSPENSION OF AVIATION
 20 RIGHTS.—Within 10 days after the date of
 21 notification of a government under sub-
 22 clause (I), the Secretary of Transportation
 23 shall take all steps necessary to suspend at
 24 the earliest possible date the authority of
 25 any foreign air carrier owned or controlled,

1 directly or indirectly, by that government
2 to engage in foreign air transportation to
3 or from the United States, notwithstanding
4 any agreement relating to air services.

5 “(B) TERMINATION OF AIR SERVICE
6 AGREEMENTS.—

7 “(i) IN GENERAL.—The President
8 may direct the Secretary of State to termi-
9 nate any air service agreement between the
10 United States and a country with respect
11 to which the President has made a deter-
12 mination pursuant to section 307(a), in ac-
13 cordance with the provisions of that agree-
14 ment.

15 “(ii) TERMINATION OF AVIATION
16 RIGHTS.—Upon termination of an agree-
17 ment under this clause, the Secretary of
18 Transportation shall take such steps as
19 may be necessary to revoke at the earliest
20 possible date the right of any foreign air
21 carrier owned, or controlled, directly or in-
22 directly, by the government of that country
23 to engage in foreign air transportation to
24 or from the United States.

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

7 “(D) DEFINITIONS.—For purposes of this
8 paragraph, the terms ‘aircraft’, ‘air transpor-
9 tation’, and ‘foreign air carrier’ have the mean-
10 ings given those terms in section 40102 of title
11 49, United States Code.

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

16 “(b) BLOCKING OF ASSETS.—Upon making a deter-
17 mination under section 307, the President shall take all
18 steps necessary to block any transactions in any property
19 subject to the jurisdiction of the United States in which
20 the foreign country or any national thereof has any inter-
21 est whatsoever, for the purpose of compensating the vic-
22 tims of the chemical or biological weapons use and for pu-
23 nitive damages as may be assessed.

1 “(c) STATUTORY CONSTRUCTION.—Nothing in this
2 section limits the authority of the President to impose a
3 sanction that is not specified in this section.

4 **“SEC. 309. REMOVAL OF SANCTIONS.**

5 “(a) CERTIFICATION REQUIREMENT.—The President
6 shall remove the sanctions imposed with respect to a for-
7 eign government pursuant to this section if the President
8 determines and so certifies to the Congress, after the end
9 of the three-year period beginning on the date on which
10 sanctions were initially imposed on that country pursuant
11 to section 307, that—

12 “(1) the government of that country has pro-
13 vided reliable assurances that it will not use any
14 chemical weapon or biological weapon in violation of
15 international law and will not use any chemical
16 weapon or biological weapon against its own nation-
17 als;

18 “(2) the government of the country is willing to
19 accept onsite inspections or other reliable measures
20 to verify that the government is not making prepara-
21 tions to use any chemical weapon or biological weap-
22 on in violation of international law or to use any
23 chemical weapon or biological weapon against its
24 own nationals; and

1 “(3) the government of the country is making
2 restitution to those affected by any use of any chem-
3 ical weapon or biological weapon in violation of
4 international law or against its own nationals.

5 “(b) REASONS FOR DETERMINATION.—The certifi-
6 cation made under this subsection shall set forth the rea-
7 sons supporting such determination in each particular
8 case.

9 “(c) EFFECTIVE DATE.—The certification made
10 under this subsection shall take effect on the date on
11 which the certification is received by the Congress.

12 **“SEC. 310. NOTIFICATIONS AND REPORTS OF CHEMICAL OR**
13 **BIOLOGICAL WEAPONS USE AND APPLICA-**
14 **TION OF SANCTIONS.**

15 “(a) NOTIFICATION.—Not later than 30 days after
16 persuasive information becomes available to the executive
17 branch of Government indicating the substantial possibil-
18 ity of the use of chemical or biological weapons by any
19 person or government, the President shall so notify Con-
20 gress in writing.

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

24 “(1) an assessment by the President in both
25 classified and unclassified form of the circumstances

1 of the suspected use of chemical or biological weap-
2 ons, including any determination by the President
3 made under section 307 with respect to a foreign
4 government; and

5 “(2) a description of the actions the President
6 intends to take pursuant to the assessment, includ-
7 ing the imposition of any sanctions or other meas-
8 ures pursuant to section 307.

9 “(c) PROGRESS REPORT.—Not later than 60 days
10 after submission of a report under subsection (b), the
11 President shall submit a progress report to Congress de-
12 scribing actions undertaken by the President under sec-
13 tions 306 through 311, including the imposition of unilat-
14 eral and multilateral sanctions and other punitive meas-
15 ures, in response to the use of any chemical weapon or
16 biological weapon described in the report.

17 “(d) RECIPIENTS OF NOTIFICATIONS AND RE-
18 PORTS.—Any notification or report required by this sec-
19 tion shall be submitted to the following:

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

22 “(2) The Committee on Foreign Relations and
23 the Select Committee on Intelligence of the Senate.

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

4 **“SEC. 311. DEFINITIONS.**

5 “In sections 306 through 310:

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

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

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

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

22 “(iii) deleterious alteration of the en-
23 vironment.

24 “(B) Any munition or device specifically
25 designed to cause death or other harm through

1 the release, dissemination, or impact of the
2 toxic or poisonous properties of those biological
3 weapons specified in subparagraph (A).

4 “(C) Any equipment specifically designed
5 for use directly in connection with the employ-
6 ment of munitions or devices specified in sub-
7 paragraph (B).

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

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

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

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

23 “(C) Any other chemical agent that may
24 be developed if the use of the agent would be
25 intended to produce an effect consistent with

1 that of a chemical agent or other chemical de-
2 scribed in subparagraph (A) or (B).

3 “(D) Any munition or device specifically
4 designed to cause death or other harm through
5 the release, dissemination, or impact of the
6 toxic or poisonous properties of a chemical
7 weapon specified in subparagraph (A), (B), or
8 (C).

9 “(E) Any equipment specifically designed
10 for use directly in connection with the employ-
11 ment of munitions or devices specified in sub-
12 paragraph (D).

13 “(3) PERSON.—The term ‘person’ means any
14 individual, corporation, partnership, firm, associa-
15 tion, or other legal entity.”.

16 **SEC. 202. CONTINUATION AND ENHANCEMENT OF MULTI-**
17 **LATERAL CONTROL REGIMES.**

18 (a) SENSE OF CONGRESS.—It is the sense of Con-
19 gress that any collapse of the informal forum of states
20 known as the “Australia Group”, either through changes
21 in membership or lack of compliance with common export
22 controls, or any substantial weakening of common Aus-
23 tralia Group export controls and nonproliferation meas-
24 ures in force as of the date of enactment of this Act, would
25 seriously undermine international and national efforts to

1 curb the spread of chemical and biological weapons and
2 related equipment.

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

5 (1) to continue close cooperation with other
6 countries in the Australia Group in support of its
7 current efforts and in devising additional means to
8 monitor and control the supply of chemicals and bio-
9 logical agents applicable to weapons production;

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

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

24 (4) to work closely with other countries also ca-
25 pable of supplying equipment, materials, and tech-

1 nology with particular applicability to the production
2 of chemical or biological weapons in order to devise
3 and harmonize the most effective national controls
4 possible on the transfer of such materials, equip-
5 ment, and technology.

6 (c) CERTIFICATION.—Not later than 180 days after
7 the date of the enactment of this Act, and annually there-
8 after, the President shall determine and certify to Con-
9 gress whether—

10 (1) the Australia Group continues to maintain
11 an equivalent or more comprehensive level of control
12 over the export of toxic chemicals and their precur-
13 sors, dual-use processing equipment, human, animal,
14 and plant pathogens and toxins with potential bio-
15 logical weapons application, and dual-use biological
16 equipment, as that afforded by the Australia Group
17 as of the date of the last certification under this
18 subsection, or, in the case of the first certification,
19 the level of control maintained as of the date of en-
20 actment of this Act; and

21 (2) the Australia Group remains a viable mech-
22 anism for curtailing the spread of chemical and bio-
23 logical weapons-related materials and technology,
24 and whether the effectiveness of the Australia Group
25 has been undermined by changes in membership,

1 lack of compliance with common export controls, or
2 any weakening of common controls and measures
3 that are in effect as of the date of enactment of this
4 Act.

5 (d) CONSULTATIONS.—

6 (1) IN GENERAL.—The President shall consult
7 periodically, but not less frequently than twice a
8 year, with the Committee on Foreign Relations of
9 the Senate and the Committee on International Re-
10 lations of the House of Representatives, on Australia
11 Group export controls and nonproliferation meas-
12 ures.

13 (2) RESULTING FROM PRESIDENTIAL CERTIFI-
14 CATION.—If the President certifies that either of the
15 conditions in subsection (c) are not met, the Presi-
16 dent shall consult within 60 days of such certifi-
17 cation with the Committee on Foreign Relations of
18 the Senate and the Committee on International Re-
19 lations of the House of Representatives on steps the
20 United States should take to maintain effective
21 international controls on chemical and biological
22 weapons-related materials and technology.

1 **SEC. 203. CRITERIA FOR UNITED STATES ASSISTANCE TO**
2 **RUSSIA RELATING TO THE ELIMINATION OF**
3 **CHEMICAL AND BIOLOGICAL WEAPONS.**

4 (a) IN GENERAL.—Notwithstanding any other provi-
5 sion of law, United States assistance described in sub-
6 section (d) may not be obligated or expended unless a cer-
7 tification by the President is in effect under subsection
8 (b) or subsection (c).

9 (b) CERTIFICATION WITH RESPECT TO RUSSIAN
10 CHEMICAL AND BIOLOGICAL PROGRAM.—Not later than
11 180 days after the date of the enactment of this Act, and
12 annually thereafter, the President shall certify that—

13 (1) Russia is making reasonable progress to-
14 ward the implementation of the Bilateral Destruc-
15 tion Agreement;

16 (2) the United States and Russia have made
17 substantial progress toward resolution, to the satis-
18 faction of the United States, of outstanding compli-
19 ance issues under the Wyoming Memorandum of
20 Understanding and the Bilateral Destruction Agree-
21 ment;

22 (3) Russia has fully and accurately declared all
23 information regarding its unitary and binary chemi-
24 cal weapons, chemical weapons production facilities,
25 and other facilities associated with the development
26 of chemical weapons; and

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

3 (c) ALTERNATIVE CERTIFICATION.—A certification
4 under this subsection is a certification by the President
5 that the President is unable to make a certification under
6 subsection (b).

7 (d) PERIOD OF EFFECTIVENESS OF CERTIFI-
8 CATIONS.—Each certification made under this section
9 shall not be effective for a period of more than one year.

10 (e) UNITED STATES ASSISTANCE COVERED.—United
11 States assistance described in this subsection is United
12 States assistance out of funds made available for fiscal
13 year 1998 or any fiscal year thereafter that is provided
14 with respect to Russia only for the purposes of—

15 (1) facilitating the transport, storage, safe-
16 guarding, and elimination of any chemical weapon or
17 biological weapon or its delivery vehicle;

18 (2) planning, designing, or construction of any
19 destruction facility for a chemical weapon or biologi-
20 cal weapon; or

21 (3) supporting any international science and
22 technology center.

23 (f) DEFINITIONS.—

24 (1) BILATERAL DESTRUCTION AGREEMENT.—

25 The term “Bilateral Destruction Agreement” means

1 Agreement Between the United States of America
2 and the Union of Soviet Socialist Republics on De-
3 struction and Nonproduction of Chemical Weapons
4 and on Measures to Facilitate the Multilateral Con-
5 vention on Banning Chemical Weapons, signed on
6 June 1, 1990.

7 (2) BIOLOGICAL WEAPONS CONVENTION.—The
8 term “Biological Weapons Convention” means the
9 Convention on the Prohibition of the Development,
10 Production and Stockpiling of Bacteriological (Bio-
11 logical) and Toxin Weapons and on Their Destruc-
12 tion, done at Washington, London, and Moscow on
13 April 10, 1972.

14 (3) WYOMING MEMORANDUM OF UNDERSTAND-
15 ING.—The term “Wyoming Memorandum of Under-
16 standing” means the Memorandum of Understand-
17 ing Between the Government of the United States of
18 America and the Government of the Union of Soviet
19 Socialist Republics Regarding a Bilateral Verifica-
20 tion Experiment and Data Exchange Related to Pro-
21 hibition on Chemical Weapons, signed at Jackson
22 Hole, Wyoming, on September 23, 1989.

23 (4) UNITED STATES ASSISTANCE.—The term
24 “United States assistance” has the meaning given

1 the term in section 481(e)(4) of the Foreign Assist-
2 ance Act of 1961 (22 U.S.C. 2291(e)(4)).

3 **SEC. 204. REPORT ON THE STATE OF CHEMICAL AND BIO-**
4 **LOGICAL WEAPONS PROLIFERATION.**

5 Not later than 180 days after the date of enactment
6 of this Act, and every year thereafter, the President shall
7 submit to the Speaker of the House of Representatives
8 and the Committee on Foreign Relations and the Select
9 Committee on Intelligence of the Senate a report contain-
10 ing the following:

11 (1) PROLIFERATION BY FOREIGN COUNTRIES.—

12 A description of any efforts by China, Egypt, India,
13 Iran, Iraq, Libya, North Korea, Pakistan, Russia,
14 and Syria, and any country that has, during the five
15 years prior to submission of the report, used any
16 chemical weapon or biological weapon or attempted
17 to acquire the material and technology to produce
18 and deliver chemical or biological agents, together
19 with an assessment of the present and future capa-
20 bility of the country to produce and deliver such
21 agents.

22 (2) FOREIGN PERSONS ASSISTING IN PRO-
23 LIFERATION.—An identification of—

1 (A) those persons that in the past have as-
2 sisted the government of any country described
3 in paragraph (1) in that effort; and

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

8 (3) THIRD COUNTRY ASSISTANCE IN PRO-
9 LIFERATION.—An assessment of whether and to
10 what degree other countries have assisted any gov-
11 ernment or country described in paragraph (1) in its
12 effort to acquire the material and technology de-
13 scribed in that paragraph.

14 (4) INTELLIGENCE INFORMATION ON THIRD
15 COUNTRY ASSISTANCE.—A description of any con-
16 firmed or credible intelligence or other information
17 that any country has assisted the government of any
18 country described in paragraph (1) in that effort, ei-
19 ther directly or by facilitating the activities of the
20 persons identified in subparagraph (A) or (B) of
21 paragraph (3) or had knowledge of the activities of
22 the persons identified in subparagraph (A) or (B) of
23 paragraph (3), but took no action to halt or discour-
24 age such activities.

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

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

14 **SEC. 205. INTERNATIONAL CONFERENCE TO STRENGTHEN**
 15 **THE 1925 GENEVA PROTOCOL.**

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

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

23 (1) to work to obtain multilateral agreement to
 24 effective, international enforcement mechanisms to
 25 existing international agreements that prohibit the

1 use of chemical and biological weapons, to which the
2 United States is a state party; and

3 (2) pursuant to paragraph (1), to work to ob-
4 tain multilateral agreement regarding the collective
5 imposition of sanctions and other measures de-
6 scribed in title III of the Chemical and Biological
7 Weapons Control and Warfare Elimination Act of
8 1991, as amended by this Act.

9 (c) RESPONSIBILITY.—The Secretary of State shall,
10 as a priority matter, take steps necessary to achieve
11 United States objectives, as set forth in this section.

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

17 (e) ALLOCATION OF FUNDS.—Of the amount author-
18 ized to be appropriated to the Department of State for
19 fiscal year 1998 under the appropriations account entitled
20 “International Conferences and Contingencies”,
21 \$5,000,000 shall be available only for payment of salaries
22 and expenses in connection with efforts of the Secretary
23 of State to conclude an international agreement described
24 in subsection (d).

1 **SEC. 206. RESTRICTION ON USE OF FUNDS FOR THE ORGA-**
2 **NIZATION FOR THE PROHIBITION OF CHEMI-**
3 **CAL WEAPONS.**

4 (a) PROHIBITION.—None of the funds appropriated
5 pursuant to any provision of law, including previously ap-
6 propriated funds, may be available to make any voluntary
7 or assessed contribution to the Organization for the Prohi-
8 bition of Chemical Weapons, or to reimburse any account
9 for the transfer of in-kind items to the Organization, un-
10 less or until the Convention on the Prohibition of Develop-
11 ment, Production, Stockpiling and Use of Chemical Weap-
12 ons and on Their Destruction, opened for signature at
13 Paris January 13, 1993, enters into force for the United
14 States.

15 (b) STATUTORY CONSTRUCTION.—Nothing in sub-
16 section (a) may be construed to apply to the Preliminary
17 Commission for the establishment of the Organization for
18 the Prohibition of Chemical Weapons.

19 **SEC. 207. ENHANCEMENTS TO ROBUST CHEMICAL AND BIO-**
20 **LOGICAL DEFENSES.**

21 (a) SENSE OF CONGRESS.—It is the sense of Con-
22 gress that—

23 (1) the threats posed by chemical and biological
24 weapons to United States Armed Forces deployed in
25 regions of concern will continue to grow and will un-
26 dermine United States strategies for the projection

1 of United States military power and the forward de-
2 ployment of United States Armed Forces;

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

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

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

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

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

1 (7) congressional direction contained in the
2 1997 Defense Against Weapons of Mass Destruction
3 Act is intended to lead to enhanced domestic pre-
4 paredness to protect against the use of chemical and
5 biological weapons; and

6 (8) the United States Armed Forces should
7 place increased emphasis on potential threats to de-
8 ployed United States Armed Forces and, in particu-
9 lar, should make countering the use of chemical and
10 biological weapons an organizing principle for
11 United States defense strategy and for the develop-
12 ment of force structure, doctrine, planning, training,
13 and exercising policies of the United States Armed
14 Forces.

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

1 of United States military plans in regional conflicts,
2 including—

3 (1) deployment, logistics, and reinforcement op-
4 erations at key ports and airfields;

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

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

9 (c) DISCUSSIONS WITH ALLIED COUNTRIES ON
10 READINESS.—

11 (1) HIGH-PRIORITY JOINT RESPONSIBILITY OF
12 SECRETARIES OF DEFENSE AND STATE.—The Sec-
13 retary of Defense and the Secretary of State shall
14 give a high priority to discussions with key regional
15 allies and likely regional coalition partners, including
16 those countries where the United States currently
17 deploys forces, where United States forces would
18 likely operate during regional conflicts, or which
19 would provide civilians necessary to support United
20 States military operations, to determine what steps
21 are necessary to ensure that allied and coalition
22 forces and other critical civilians are adequately
23 equipped and prepared to operate in chemically and
24 biologically contaminated environments.

1 (2) REPORT.—Not later than one year after the
2 date of the enactment of this Act, the Secretary of
3 Defense and the Secretary of State shall jointly sub-
4 mit to the Committee on Foreign Relations and the
5 Committee on Armed Services of the Senate and to
6 the Speaker of the House of Representatives a re-
7 port describing—

8 (A) the results of the discussions held
9 under paragraph (1) and plans for future dis-
10 cussions;

11 (B) the measures agreed to improve the
12 preparedness of foreign armed forces and civil-
13 ians; and

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

17 (i) the sale of defense articles and de-
18 fense services under the Arms Export Con-
19 trol Act;

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

22 (iii) chapter 5 of part II of the For-
23 eign Assistance Act of 1961 (relating to
24 international military education and train-
25 ing).

1 (d) UNITED STATES ARMY CHEMICAL SCHOOL.—

2 (1) COMMAND OF SCHOOL.—The Secretary of
3 Defense shall take those actions that are necessary
4 to ensure that the United States Army Chemical
5 School remains under the oversight of a general offi-
6 cer of the United States Army.

7 (2) SENSE OF CONGRESS.—It is the sense of
8 Congress that—

9 (A) the transfer, consolidation, and reorga-
10 nization of the United States Army Chemical
11 School should not disrupt or diminish the train-
12 ing and readiness of the United States Armed
13 Forces to fight in a chemical-biological warfare
14 environment; and

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

19 (e) REPORT.—

20 (1) IN GENERAL.—Not later than 180 days
21 after the date of enactment of this Act, and on Jan-
22 uary 1 every year thereafter, the President shall
23 submit a report to the Committee on Foreign Rela-
24 tions, the Committee on Armed Services, and the
25 Committee on Appropriations of the Senate and the

1 Committee on International Relations, the Commit-
2 tee on National Security, and the Committee on Ap-
3 propriations of the House of Representatives, and
4 the Speaker of the House of Representatives on pre-
5 vious, current, and planned chemical and biological
6 weapons defense activities of the United States
7 Armed Forces.

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

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

1 (B) PRIORITIES.—An identification of pri-
2 orities of the executive branch of Government in
3 the development of both active and passive de-
4 fenses against the use of chemical and biologi-
5 cal weapons.

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

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

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

1 (F) PROTECTIVE GEAR.—A description of
2 the progress made in procuring lightweight per-
3 sonal protective gear and steps being taken to
4 ensure that programmed procurement quan-
5 tities are sufficient to replace expiring
6 battledress overgarments and chemical protec-
7 tive overgarments to maintain required wartime
8 inventory levels.

9 (G) DETECTION AND IDENTIFICATION CA-
10 PABILITIES.—A description of the progress
11 made in developing long-range standoff detec-
12 tion and identification capabilities and other
13 battlefield surveillance capabilities for biological
14 and chemical weapons, including progress on
15 developing a multichemical agent detector, un-
16 manned aerial vehicles, and unmanned ground
17 sensors.

18 (H) THEATER MISSILE DEFENSES.—A de-
19 scription of the progress made in developing
20 and deploying layered theater missile defenses
21 for deployed United States Armed Forces which
22 will provide greater geographic coverage against
23 current and expected ballistic missile threats
24 and will assist the mitigation of chemical and

1 biological contamination through higher altitude
2 intercepts and boost-phase intercepts.

3 (I) TRAINING AND READINESS.—An as-
4 sessment of the training and readiness of the
5 United States Armed Forces to operate in
6 chemically and biologically contaminated envi-
7 ronments and actions taken to sustain training
8 and readiness, including at national combat
9 training centers.

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

20 (K) MILITARY DOCTRINE.—A description
21 of the progress made in developing and imple-
22 menting service and joint doctrine for combat
23 and noncombat operations involving adversaries
24 armed with chemical or biological weapons, in-
25 cluding efforts to update the range of service

1 and joint doctrine to better address the wide
2 range of military activities, including deploy-
3 ment, reinforcement, and logistics operations in
4 support of combat operations, and for the con-
5 duct of such operations in concert with coalition
6 forces.

7 (L) DEFENSE OF CIVILIAN POPULATION.—

8 A description of the progress made in resolving
9 issues relating to the protection of United
10 States population centers from chemical and bi-
11 ological attack and from the consequences of
12 such an attack, including plans for inoculation
13 of populations, consequence management, and
14 progress made in developing and deploying ef-
15 fective cruise missile defenses and a national
16 ballistic missile defense.

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

18 (a) SENSE OF CONGRESS.—It is the sense of Con-
19 gress that in order to achieve an effective deterrence
20 against attacks of the United States and United States
21 Armed Forces by chemical weapons, the President should
22 reevaluate the extension of negative security assurances
23 by the United States to nonnuclear-weapon states in the
24 context of the Treaty on the Non-Proliferation of Nuclear
25 Weapons.

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

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

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

15 (c) DEFINITIONS.—In this section:

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

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

7 **SEC. 209. RIOT CONTROL AGENTS.**

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

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

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

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

20 (1) peacekeeping or peace support operations;

21 (2) humanitarian or disaster relief operations;

22 (3) noncombatant evacuation operations;

23 (4) counterterrorist operations and the rescue
24 of hostages; and

1 (5) law enforcement operations and other inter-
2 nal conflicts.

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

6 (1) in areas under direct and distinct United
7 States military control, including the use of such
8 agents for the purposes of controlling rioting or es-
9 caping enemy prisoners of war;

10 (2) to protect personnel or material from civil
11 disturbances, terrorists, and paramilitary organiza-
12 tions;

13 (3) to minimize casualties during rescue mis-
14 sions of downed air crews and passengers, prisoners
15 of war, or hostages;

16 (4) in situations where combatants and non-
17 combatants are intermingled; and

18 (5) in support of base defense, rear area oper-
19 ations, noncombatant evacuation operations, and op-
20 erations to protect or recover nuclear weapons.

21 (d) SENSE OF CONGRESS.—It is the sense of Con-
22 gress that international law permits the United States to
23 use herbicides, under regulations applicable to their do-
24 mestic use, for control of vegetation within United States

1 bases and installations or around their immediate defen-
2 sive perimeters.

3 (e) AUTHORITY OF THE PRESIDENT.—The President
4 shall take all necessary measures, and prescribe such rules
5 and regulations as may be necessary, to ensure that the
6 policy contained in this section is observed by the Armed
7 Forces of the United States.

Passed the Senate April 17, 1997.

Attest:

GARY SISCO,
Secretary.