

deserve a great deal of credit for their patience and determination in the effort to help bring this dispute to a close.

Statement on Expanding the Executive Order on Proliferation of Weapons of Mass Destruction

July 28, 1998

Today, I am expanding existing Executive order authority to enhance America's ability to deal with one of the toughest security challenges we face: the spread of weapons of mass destruction and missiles to deliver such weapons.

Two weeks ago, the Russian Government announced it was investigating a number of Russian entities suspected of violating weapons of mass destruction export control provisions.

Today's Executive order amendment will allow us to respond more effectively to evidence that foreign entities around the world, such as these Russian entities, have assisted in the transfer of dangerous weapons and weapons technologies. The United States will use the amended Executive order, along with other existing authorities, to bar assistance to seven of the entities identified by Russia, as well as to bar exports to and imports from these entities.

The new Executive order amends Executive Order 12938, issued in 1994, in key respects:

- The amended E.O. addresses not only transfers of chemical and biological weapons, as provided in the original E.O., but also nuclear weapons and missiles capable of delivering weapons of mass destruction;
- The amended E.O. imposes penalties not only where a transfer has been carried out, as provided in the original E.O., but also in the event of an attempt to transfer;
- The amended E.O. expressly expands the range of potential penalties on entities that have contributed to proliferation. Penalties include prohibition of U.S. Government assistance to the entity and prohibition of imports into the

U.S., or U.S. Government procurement of goods, technology, and services.

The amended E.O. ensures that our Government has the necessary flexibility in deciding when and to what extent to impose penalties. In the fight to stem the spread of dangerous weaponry, we must be resourceful and focus on doing what works. Being able to offer both incentives and disincentives enhances our capacity to deal with these threats. I will continue to work with Congress to ensure that America's policy provides tough penalties—and also sufficient flexibility to give us the best chance to achieve positive results.

My administration is working actively with our friends and allies around the world to prevent the proliferation of weapons of mass destruction. We are encouraged by recent commitments by Russia, by our European allies, and others to increase their efforts, and we will continue to press for even stronger commitments.

Executive Order 13094— Proliferation of Weapons of Mass Destruction

July 28, 1998

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), the Arms Export Control Act (22 U.S.C. 2751 *et seq.*) (AECA), and section 301 of title 3, United States Code,

I, William J. Clinton, President of the United States of America, in order to take additional steps with respect to the proliferation of weapons of mass destruction and means of delivering them and the national emergency described and declared in Executive Order 12938 of November 14, 1994, hereby order:

Section 1. Amendment of Executive Order 12938.

(a) Section 4 of Executive Order 12938 of November 14, 1994, is revised to read as follows:

"Sec. 4. Measures Against Foreign Persons.

(a) *Determination by Secretary of State; Imposition of Measures.* Except to the extent provided in section 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)), where applicable, if the Secretary of State determines that a foreign person, on or after November 16, 1990, the effective date of Executive Order 12735, the predecessor order to Executive Order 12938, has materially contributed or attempted to contribute materially to the efforts of any foreign country, project, or entity of proliferation concern to use, acquire, design, develop, produce, or stockpile weapons of mass destruction or missiles capable of delivering such weapons, the measures set forth in subsections (b), (c), and (d) of this section shall be imposed on that foreign person to the extent determined by the Secretary of State in consultation with the implementing agency and other relevant agencies. Nothing in this section is intended to preclude the imposition on that foreign person of other measures or sanctions available under this order or under other authorities.

(b) *Procurement Ban.* No department or agency of the United States Government may procure, or enter into any contract for the procurement of, any goods, technology, or services from any foreign person described in subsection (a) of this section.

(c) *Assistance Ban.* No department or agency of the United States Government may provide any assistance to any foreign person described in subsection (a) of this section, and no such foreign person shall be eligible to participate in any assistance program of the United States Government.

(d) *Import Ban.* The Secretary of the Treasury shall prohibit the importation into the United States of goods, technology, or services produced or provided by any foreign person described in subsection (a) of this section, other than information or informational materials within the meaning of section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)).

(e) *Termination.* Measures pursuant to this section may be terminated against a foreign person if the Secretary of State determines that there is reliable evidence that such for-

eign person has ceased all activities referred to in subsection (a) of this section.

(f) *Exceptions.* Departments and agencies of the United States Government, acting in consultation with the Secretary of State, may, by license, regulation, order, directive, exception, or otherwise, provide for:

(i) Procurement contracts necessary to meet U.S. operational military requirements or requirements under defense production agreements; intelligence requirements; sole source suppliers, spare parts, components, routine servicing and maintenance of products for the United States Government; and medical and humanitarian items; and

(ii) Performance pursuant to contracts in force on the effective date of this order under appropriate circumstances."

(b) Section 6 of Executive Order 12938 of November 14, 1994, is amended by deleting "4(c)" and inserting "4(e)" in lieu thereof.

Sec. 2. Preservation of Authorities. Nothing in this order is intended to affect the continued effectiveness of any rules, regulations, orders, licenses, or other forms of administrative action issued, taken, or continued in effect heretofore or hereafter under the authority of IEEPA, AECA, the Nuclear Non-Proliferation Act of 1978, the Nuclear Proliferation Prevention Act of 1994, the Atomic Energy Act, the Export Administration Act (50 U.S.C. App. 2401 *et seq.*), Executive Order 12730 of September 30, 1990, Executive Order 12735 of November 16, 1990, Executive Order 12924 of August 18, 1994, Executive Order 12930 of September 29, 1994, or Executive Order 12938 of November 14, 1994.

Sec. 3. Judicial Review. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 4. Effective Date.

(a) This order is effective at 12:01 a.m. eastern daylight time on July 29, 1998.

(b) This order shall be transmitted to the Congress and published in the *Federal Register*.

William J. Clinton

The White House,
July 28, 1998.

[Filed with the Office of the Federal Register, 10:40 a.m., July 29, 1998]

NOTE: This Executive order was published in the *Federal Register* on July 30.

**Message to the Congress on the
Expansion of the Executive Order on
Proliferation of Weapons of Mass
Destruction**

July 28, 1998

To the Congress of the United States:

On November 14, 1994, in light of the danger of the proliferation of nuclear, biological, and chemical weapons (weapons of mass destruction) and of the means of delivering such weapons, using my authority under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), I declared a national emergency and issued Executive Order 12938. Because the proliferation of weapons of mass destruction continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, I have renewed the national emergency declared in Executive Order 12938 annually, most recently on November 14, 1997. Pursuant to section 204(b) of the International Emergency Economic Powers Act (50 U.S.C. 1703(b)), I hereby report to the Congress that I have exercised my statutory authority to issue an Executive order to amend Executive Order 12938 in order to more effectively to respond to the worldwide threat of weapons of mass destruction proliferation activities.

The amendment of section 4 of Executive Order 12938 strengthens the original Executive order in several significant ways.

First, the amendment broadens the type of proliferation activity that is subject to potential penalties. Executive Order 12938 covers contributions to the efforts of any foreign

country, project, or entity to use, acquire, design, produce, or stockpile chemical or biological weapons (CBW). This amendment adds potential penalties for contributions to foreign programs for nuclear weapons and missiles capable of delivering weapons of mass destruction. For example, the new amendment authorizes the imposition of measures against foreign entities that materially assist Iran's missile program.

Second, the amendment lowers the requirements for imposing penalties. Executive Order 12938 required a finding that a foreign person "knowingly and materially" contributed to a foreign CBW program. The amendment removes the "knowing" requirement as a basis for determining potential penalties. Therefore, the Secretary of State need only determine that the foreign person made a "material" contribution to a weapons of mass destruction or missile program to apply the specified sanctions. At the same time, the Secretary of State will have discretion regarding the scope of sanctions so that a truly unwitting party will not be unfairly punished.

Third, the amendment expands the original Executive order to include "attempts" to contribute to foreign proliferation activities, as well as actual contributions. This will allow imposition of penalties even in cases where foreign persons make an unsuccessful effort to contribute to weapons of mass destruction and missile programs or where authorities block a transaction before it is consummated.

Fourth, the amendment expressly expands the range of potential penalties to include the prohibition of United States Government assistance to the foreign person, as well as United States Government procurement and imports into the United States, which were specified by the original Executive order. Moreover, section 4(b) broadens the scope of the United States Government procurement limitations to include a bar on the procurement of technology, as well as goods or services from any foreign person described in section 4(a). Section 4(d) broadens the scope of import limitations to include a bar on imports of any technology or services produced or provided by any foreign person described in section 4(a).