

devisees of lands subject to this bill. Furthermore, the administration should also adopt regulations that at least give the probate process a fair but timely chance of working.

Having voiced these concerns, I will support passage of this bill.

Mr. POMEROY. Mr. Speaker, I yield back the balance of my time.

Mrs. CHENOWETH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CALVERT). The question is on the motion offered by the gentlewoman from Idaho [Mrs. CHENOWETH] that the House suspend the rules and pass the Senate bill, S. 1079, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "A bill to permit the mineral leasing of Indian land located within the Fort Berthold Indian Reservation in any case in which there is consent from a majority interest in the parcel of land under consideration for lease, to direct the Secretary of Agriculture to conduct a pilot project on designated national forest lands in California to demonstrate the effectiveness of resource management activities proposed by the Quincy Library Group, and for other purposes."

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mrs. CHENOWETH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Idaho?

There was no objection.

#### IRAN MISSILE PROLIFERATION SANCTIONS ACT OF 1997

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2709) to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles, as amended.

The Clerk read as follows:

H.R. 2709

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### TITLE I—IRAN MISSILE PROLIFERATION SANCTIONS

##### SEC. 101. SHORT TITLE.

This title may be cited as the "Iran Missile Proliferation Sanctions Act of 1997".

##### SEC. 102. REPORTS ON MISSILE PROLIFERATION TO IRAN.

(a) REPORTS.—Except as provided in subsection (c), the President shall, at the times specified in subsection (b), submit to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate a report

identifying every foreign person with respect to whom there is credible information indicating that that person, on or after August 8, 1995—

(1)(A) transferred items on the MTCR Annex, or items that the United States proposes for addition to the MTCR Annex, that contributed to Iran's efforts to acquire, develop, or produce ballistic missiles, or

(B) provided technical assistance or facilities which the President deems to be of concern because of their direct contribution to Iran's efforts to acquire, develop, or produce ballistic missiles; or

(2)(A) attempted to transfer items on the MTCR Annex, or items that the United States proposes for addition to the MTCR Annex, that would have contributed to Iran's efforts to acquire, develop, or produce ballistic missiles, or

(B) attempted to provide technical assistance or facilities which the President deems to be of concern because of their direct contribution to Iran's efforts to acquire, develop, or produce ballistic missiles.

(b) TIMING OF REPORTS.—The reports under subsection (a) shall be submitted not later than 30 days after the date of the enactment of this Act, not later than 180 days after such date of enactment, not later than 1 year after such date of enactment, and not later than the end of each 1-year period thereafter.

(c) EXCEPTIONS.—Any foreign person who—

(1) was identified in a previous report submitted under subsection (a) on account of a particular transfer, transaction, or attempt,

(2) has engaged in a transfer or transaction that was the basis for the imposition of sanctions with respect to that person under section 73 of the Arms Export Control Act or section 1604 of the Iran-Iraq Arms Non-Proliferation Act of 1992,

(3) may have engaged in a transfer or transaction, or made an attempt, that was the subject of a waiver under section 104, or

(4) has engaged in a transfer or transaction, or made an attempt, on behalf of, or in concert with, the Government of the United States,

is not required to be identified on account of that same transfer, transaction, or attempt in any report submitted thereafter under this section.

(d) SUBMISSION IN CLASSIFIED FORM.—When the President considers it appropriate, reports submitted under subsection (a), or appropriate parts thereof, may be submitted in classified form.

##### SEC. 103. IMPOSITION OF SANCTIONS.

(a) REQUIREMENT TO IMPOSE SANCTIONS.—

(1) REQUIREMENT TO IMPOSE SANCTIONS.—The sanctions described in subsection (b) shall be imposed on—

(A) any foreign person identified under subsection (a)(1) of section 102 in a report submitted under that section, and

(B) any foreign person identified under subsection (a)(2) of section 102 in a report submitted under that section, if that person has been identified in that report or a previous report as having made at least 1 other attempt described in subsection (a)(2) of that section.

(2) EFFECTIVE DATE OF SANCTIONS.—The sanctions shall be effective—

(A) 30 days after the report triggering the sanction is submitted, if the report is submitted on or before the date required by section 102(b);

(B) 30 days after the date required by section 102(b) for submitting the report, if the report triggering the sanction is submitted within 30 days after that date; and

(C) on the date that the report triggering the sanction is submitted, if that report is submitted more than 30 days after the date required by section 102(b).

(b) DESCRIPTION OF SANCTIONS.—The sanctions referred to in subsection (a) that are to be imposed on a foreign person described in that subsection are the following:

(1) ARMS EXPORT SANCTION.—For a period of not less than 2 years, the United States Government shall not sell to that person any item on the United States Munitions List as in effect on August 8, 1995, and shall terminate sales to that person of any defense articles, defense services, or design and construction services under the Arms Export Control Act.

(2) DUAL USE SANCTION.—For a period of not less than 2 years, the authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit the export to that person of any goods or technology on the control list established under section 5(c)(1) of that Act.

(3) UNITED STATES ASSISTANCE.—For a period of not less than 2 years, the United States Government shall not provide any assistance in the form of grants, loans, credits, guarantees, or otherwise, to that person.

##### SEC. 104. WAIVER ON BASIS OF ADDITIONAL INFORMATION.

(a) IN GENERAL.—The President may waive the imposition of any sanction that would otherwise be required under section 103 on any foreign person 15 days after the President determines and reports to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate that, on the basis of information provided by that person, or otherwise obtained by the President, the President is persuaded that the person did not, on or after August 8, 1995—

(1)(A) transfer items on the MTCR Annex, or items that the United States proposes for addition to the MTCR Annex, that contributed to Iran's efforts to acquire, develop, or produce ballistic missiles, or

(B) provide technical assistance or facilities which the President deems to be of concern because of their direct contribution to Iran's efforts to acquire, develop, or produce ballistic missiles; or

(2) attempt on more than one occasion—

(A) to transfer items on the MTCR Annex, or items that the United States proposes for addition to the MTCR Annex, that would have contributed to Iran's efforts to acquire, develop, or produce ballistic missiles, or

(B) to provide technical assistance or facilities described in paragraph (1)(B).

(b) WRITTEN JUSTIFICATION.—The determination and report of the President under subsection (a) shall include a written justification describing in detail—

(1) the credible information indicating that the person—

(A) transferred items described in section 102(a)(1)(A), or provided technical assistance or facilities described in section 102(a)(1)(B); or

(B) attempted to transfer items described in section 102(a)(1)(A), or attempted to provide technical assistance or facilities described in section 102(a)(1)(B);

(2) the additional information which persuaded the President that the person did not—

(A) transfer items described in section 102(a)(1)(A), or provide technical assistance or facilities described in section 102(a)(1)(B); or

(B) attempt to transfer items described in section 102(a)(1)(A), or attempt to provide technical assistance or facilities described in section 102(a)(1)(B); and

(3) the analysis of the information supporting the President's conclusion.

(c) SUBMISSION IN CLASSIFIED FORM.—When the President considers it appropriate, the determination and report of the President

under subsection (a) and the written justification under subsection (b), or appropriate parts thereof, may be submitted in classified form.

#### SEC. 105. WAIVER ON BASIS OF NATIONAL SECURITY.

(a) IN GENERAL.—The President may waive the imposition of any sanction that would otherwise be required under section 103 on any foreign person 15 days after the President determines and reports to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate that such waiver is essential to the national security of the United States.

(b) WRITTEN JUSTIFICATION.—The determination and report of the President under subsection (a) shall include a written justification describing in detail the facts and circumstances supporting the President's conclusion.

(c) SUBMISSION IN CLASSIFIED FORM.—When the President considers it appropriate, the determination and report of the President under subsection (a) and the written justification under subsection (b), or appropriate parts thereof, may be submitted in classified form.

#### SEC. 106. ADDITIONAL INFORMATION REGARDING ACTIONS BY GOVERNMENT OF PRIMARY JURISDICTION.

As part of each report submitted under section 102, the President shall include the following information with respect to each foreign person identified in that report:

(1) A statement regarding whether the government of primary jurisdiction over that person was aware of the activities that were the basis for the identification of that person in the report.

(2) If the government of primary jurisdiction was not aware of the activities that were the basis for the identification of that person in the report, an explanation of the reasons why the United States Government did not inform that government of those activities.

(3) If the government of primary jurisdiction was aware of the activities that were the basis for the identification of that person in the report, a description of the efforts, if any, undertaken by that government to prevent those activities, and an assessment of the effectiveness of those efforts, including an explanation of why those efforts failed.

(4) If the government of primary jurisdiction was aware of the activities that were the basis for the identification of that person in the report and failed to undertake effective efforts to prevent those activities, a description of any sanctions that have been imposed on that government by the United States Government because of such failure.

#### SEC. 107. PURCHASE OF WEAPONS TECHNOLOGY.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that the President should exercise the authority granted to him under section 504 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (22 U.S.C. 5854)—

(1) to prevent the transfer of weapons-related material and delivery systems to Iran through the purchase, barter, or other acquisition of such material and delivery systems; and

(2) to prevent the transfer to Iran of scientific and technical expertise with respect to such weapons-related material and delivery systems.

(b) AVAILABILITY OF AMOUNTS.—Amounts hereafter made available, subject to the availability of appropriations, to carry out chapter 11 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq.) relating to assistance for the independent states of the former Soviet Union) may be used to carry out subsection (a).

#### SEC. 108. DEFINITIONS.

For the purposes of this title—

(1) the terms “foreign person” and “person” mean—

(A) a natural person that is an alien;

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

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

(D) any successor or subsidiary of any entity described in subparagraph (B) or (C);

(2) the term “government of primary jurisdiction” means—

(A) in the case of a natural person, the foreign government of the country of which the person is a citizen or national;

(B) in the case of an entity described in subparagraph (B) of paragraph (1), the foreign government of the country in which the entity has its principal place of business, or the foreign government under whose laws that entity is organized; and

(C) in the case of a foreign governmental entity described in subparagraph (C) of paragraph (1), the foreign government of which that entity is a part; and

(3) the term “MTCR Annex” has the meaning given that term in section 11B(c)(4) of the Export Administration Act of 1979 (50 U.S.C. 2410b(c)(4)).

### TITLE II—CHEMICAL WEAPONS CONVENTION IMPLEMENTATION

#### SEC. 201. SHORT TITLE.

This title may be cited as the “Chemical Weapons Convention Implementation Act of 1997”.

#### SEC. 202. TABLE OF CONTENTS.

The table of contents for this title is as follows:

Sec. 201. Short title.  
Sec. 202. Table of contents.  
Sec. 203. Definitions.

#### Subtitle A—General Provisions

Sec. 211. Designation of United States National Authority.

Sec. 212. No abridgement of constitutional rights.

Sec. 213. Civil liability of the United States.

Subtitle B—Penalties for Unlawful Activities Subject to the Jurisdiction of the United States

#### CHAPTER 1—CRIMINAL AND CIVIL PENALTIES

Sec. 221. Criminal and civil provisions.

#### CHAPTER 2—REVOCATIONS OF EXPORT PRIVILEGES

Sec. 222. Revocations of export privileges.

#### Subtitle C—Inspections

Sec. 231. Definitions in the subtitle.

Sec. 232. Facility agreements.

Sec. 233. Authority to conduct inspections.

Sec. 234. Procedures for inspections.

Sec. 235. Warrants.

Sec. 236. Prohibited acts relating to inspections.

Sec. 237. National security exception.

Sec. 238. Protection of constitutional rights of contractors.

Sec. 239. Annual report on inspections.

Sec. 240. United States assistance in inspections at private facilities.

#### Subtitle D—Reports

Sec. 251. Reports required by the United States National Authority.

Sec. 252. Prohibition relating to low concentrations of schedule 2 and 3 chemicals.

Sec. 253. Prohibition relating to unscheduled discrete organic chemicals and coincidental byproducts in waste streams.

Sec. 254. Confidentiality of information.

Sec. 255. Recordkeeping violations.

#### Subtitle E—Enforcement

Sec. 261. Penalties.

Sec. 262. Specific enforcement.

Sec. 263. Expedited judicial review.

#### Subtitle F—Miscellaneous Provisions

Sec. 271. Repeal.

Sec. 272. Prohibition.

Sec. 273. Bankruptcy actions.

#### SEC. 203. DEFINITIONS.

In this title:

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

(A) A toxic chemical and its precursors, except where intended for a purpose not prohibited under this title as long as the type and quantity is consistent with such a purpose.

(B) A munition or device, specifically designed to cause death or other harm through toxic properties of those toxic chemicals 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 subparagraph (B).

(2) CHEMICAL WEAPONS CONVENTION; CONVENTION.—The terms “Chemical Weapons Convention” and “Convention” mean the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993.

(3) KEY COMPONENT OF A BINARY OR MULTICOMPONENT CHEMICAL SYSTEM.—The term “key component of a binary or multicomponent chemical system” means the precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent system.

(4) 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)).

(5) ORGANIZATION.—The term “Organization” means the Organization for the Prohibition of Chemical Weapons.

(6) PERSON.—The term “person”, except as otherwise provided, means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality or political subdivision of any such government or nation, or other entity located in the United States.

(7) PRECURSOR.—

(A) IN GENERAL.—The term “precursor” means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. The term includes any key component of a binary or multicomponent chemical system.

(B) LIST OF PRECURSORS.—Precursors which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

(8) PURPOSES NOT PROHIBITED BY THIS TITLE.—The term “purposes not prohibited by this title” means the following:

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

(B) PROTECTIVE PURPOSES.—Any purpose directly related to protection against toxic

chemicals and to protection against chemical weapons.

(C) UNRELATED MILITARY PURPOSES.—Any military purpose of the United States that is not connected with the use of a chemical weapon and that is not dependent on the use of the toxic or poisonous properties of the chemical weapon to cause death or other harm.

(D) LAW ENFORCEMENT PURPOSES.—Any law enforcement purpose, including any domestic riot control purpose and including imposition of capital punishment.

(9) TECHNICAL SECRETARIAT.—The term "Technical Secretariat" means the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons established by the Chemical Weapons Convention.

(10) SCHEDULE 1 CHEMICAL AGENT.—The term "Schedule 1 chemical agent" means any of the following, together or separately:

(A) O-Alkyl ( $\leq C_{10}$ , incl. cycloalkyl) alkyl (Me, Et, n-Pr or i-Pr)-phosphonofluoridates (e.g. Sarin: O-Isopropyl methylphosphonofluoridate Soman: O-Pinacolyl methylphosphonofluoridate).

(B) O-Alkyl ( $\leq C_{10}$ , incl. cycloalkyl) N,N-dialkyl (Me, Et, n-Pr or i-Pr)-phosphoramidocyanidates (e.g. Tabun: O-Ethyl N,N-dimethyl phosphoramidocyanidate).

(C) O-Alkyl (H or  $\leq C_{10}$ , incl. cycloalkyl) S-2-dialkyl (Me, Et, n-Pr or i-Pr)-aminoethyl alkyl (Me, Et, n-Pr or i-Pr) phosphonothiolates and corresponding alkylated or protonated salts

(e.g. VX: O-Ethyl S-2-diisopropylaminoethyl methyl phosphonothiolate).

(D) Sulfur mustards:  
2-Chloroethylchloromethylsulfide  
Mustard gas: (Bis(2-chloroethyl)sulfide  
Bis(2-chloroethylthio)methane  
Sesquimustard: 1,2-Bis(2-chloroethylthio)ethane  
1,3-Bis(2-chloroethylthio)-n-propane  
1,4-Bis(2-chloroethylthio)-n-butane  
1,5-Bis(2-chloroethylthio)-n-pentane  
Bis(2-chloroethylthiomethyl)ether  
O-Mustard: Bis(2-chloroethylthioethyl)ether.  
(E) Lewisites:  
Lewisite 1: 2-Chlorovinylchloroarsine  
Lewisite 2: Bis(2-chlorovinyl)chloroarsine  
Lewisite 3: Tris(2-chlorovinyl)arsine.

(F) Nitrogen mustards:  
HN1: Bis(2-chloroethyl)ethylamine  
HN2: Bis(2-chloroethyl)methylamine  
HN3: Tris(2-chloroethyl)amine.  
(G) Saxitoxin.  
(H) Ricin.

(I) Alkyl (Me, Et, n-Pr or i-Pr) phosphonyldifluorides (e.g. DF: Methylphosphonyldifluoride).

(J) O-Alkyl (H or  $\leq C_{10}$ , incl. cycloalkyl) O-2-dialkyl

(Me, Et, n-Pr or i-Pr)-aminoethyl alkyl (Me, Et, n-Pr or i-Pr) phosphonites and corresponding alkylated or protonated salts (e.g. QL: O-Ethyl O-2-diisopropylaminoethyl methylphosphonite).

(K) Chlorosarin: O-Isopropyl methylphosphonochloridate.

(L) Chlorosoman: O-Pinacolyl methylphosphonochloridate.

(11) SCHEDULE 2 CHEMICAL AGENT.—The term "Schedule 2 chemical agent" means the following, together or separately:

(A) Amiton: O,O-Diethyl S-[2-(diethylamino)ethyl] phosphorothiolate and corresponding alkylated or protonated salts.

(B) PFIB: 1,1,3,3,3-Pentafluoro-2-(trifluoromethyl)-1-propene.

(C) BZ: 3-Quinuclidinyl benzilate

(D) Chemicals, except for those listed in Schedule 1, containing a phosphorus atom to which is bonded one methyl, ethyl or propyl (normal or iso) group but not further carbon atoms,

e.g. Methylphosphonyl dichloride Dimethyl methylphosphonate

Exemption: Fonofos: O-Ethyl S-phenyl ethylphosphonothiolothionate.

(E) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) phosphoramidic dihalides.

(F) Dialkyl (Me, Et, n-Pr or i-Pr) N,N-dialkyl (Me, Et, n-Pr or i-Pr)-phosphoramidates.

(G) arsenic trichloride.

(H) 2,2-Diphenyl-2-hydroxyacetic acid.

(I) Quinuclidine-3-ol.

(J) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethyl-2-chlorides and corresponding protonated salts.

(K) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-ols and corresponding protonated salts

Exemptions: N,N-Dimethylaminoethanol and corresponding protonated salts N,N-Diethylaminoethanol and corresponding protonated salts.

(L) N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-thiols and corresponding protonated salts.

(M) Thiodiglycol: Bis(2-hydroxyethyl)sulfide.

(N) Pinacolyl alcohol: 3,3-Dimethylbutane-2-ol.

(12) SCHEDULE 3 CHEMICAL AGENT.—The term "Schedule 3 chemical agent" means any the following, together or separately:

(A) Phosgene: carbonyl dichloride.

(B) Cyanogen chloride.

(C) Hydrogen cyanide.

(D) Chloropicrin: trichloronitromethane.

(E) Phosphorous oxychloride.

(F) Phosphorous trichloride.

(G) Phosphorous pentachloride.

(H) Trimethyl phosphite.

(I) Triethyl phosphite.

(J) Dimethyl phosphite.

(K) Diethyl phosphite.

(L) Sulfur monochloride.

(M) Sulfur dichloride.

(N) Thionyl chloride.

(O) Ethyldiethanolamine.

(P) Methyl-diethanolamine.

(Q) Triethanolamine.

(13) TOXIC CHEMICAL.—

(A) IN GENERAL.—The term "toxic chemical" means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. The term includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.

(B) LIST OF TOXIC CHEMICALS.—Toxic chemicals which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

(14) 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 paragraph (41) of section 40102 of title 49, United States Code;

(B) any civil aircraft of the United States or public aircraft, as such terms are defined in paragraphs (17) 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 Mari-

time Drug Law Enforcement Act (46 U.S.C. App. 1903(b)).

(15) UNSCHEDULED DISCRETE ORGANIC CHEMICAL.—The term "unscheduled discrete organic chemical" means any chemical not listed on any schedule contained in the Annex on Chemicals of the Convention that belongs to the class of chemical compounds consisting of all compounds of carbon, except for its oxides, sulfides, and metal carbonates.

#### Subtitle A—General Provisions

#### SEC. 211. DESIGNATION OF UNITED STATES NATIONAL AUTHORITY.

(a) DESIGNATION.—Pursuant to paragraph 4 of Article VII of the Chemical Weapons Convention, the President shall designate the Department of State to be the United States National Authority.

(b) PURPOSES.—The United States National Authority shall—

(1) serve as the national focal point for effective liaison with the Organization for the Prohibition of Chemical Weapons and other States Parties to the Convention; and

(2) implement the provisions of this title in coordination with an interagency group designated by the President consisting of the Secretary of Commerce, Secretary of Defense, Secretary of Energy, the Attorney General, and the heads of agencies considered necessary or advisable by the President.

(c) DIRECTOR.—The Secretary of State shall serve as the Director of the United States National Authority.

(d) POWERS.—The Director may utilize the administrative authorities otherwise available to the Secretary of State in carrying out the responsibilities of the Director set forth in this title.

(e) IMPLEMENTATION.—The President is authorized to implement and carry out the provisions of this title and the Convention and shall designate through Executive order which agencies of the United States shall issue, amend, or revise the regulations in order to implement this title and the provisions of the Convention. The Director of the United States National Authority shall report to the Congress on the regulations that have been issued, implemented, or revised pursuant to this section.

#### SEC. 212. NO ABRIDGEMENT OF CONSTITUTIONAL RIGHTS.

No person may be required, as a condition for entering into a contract with the United States or as a condition for receiving any benefit from the United States, to waive any right under the Constitution for any purpose related to this title or the Convention.

#### SEC. 213. CIVIL LIABILITY OF THE UNITED STATES.

(a) CLAIMS FOR TAKING OF PROPERTY.—

(1) JURISDICTION OF COURTS OF THE UNITED STATES.—

(A) UNITED STATES COURT OF FEDERAL CLAIMS.—The United States Court of Federal Claims shall, subject to subparagraph (B), have jurisdiction of any civil action or claim against the United States for any taking of property without just compensation that occurs by reason of the action of any officer or employee of the Organization for the Prohibition of Chemical Weapons, including any member of an inspection team of the Technical Secretariat, or by reason of the action of any officer or employee of the United States pursuant to this title or the Convention. For purposes of this subsection, action taken pursuant to or under the color of this title or the Convention shall be deemed to be action taken by the United States for a public purpose.

(B) DISTRICT COURTS.—The district courts of the United States shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any civil action or claim described in subparagraph (A) that does not exceed \$10,000.

(2) NOTIFICATION.—Any person intending to bring a civil action pursuant to paragraph (1) shall notify the United States National Authority of that intent at least one year before filing the claim in the United States Court of Federal Claims. Action on any claim filed during that one-year period shall be stayed. The one-year period following the notification shall not be counted for purposes of any law limiting the period within which the civil action may be commenced.

(3) INITIAL STEPS BY UNITED STATES GOVERNMENT TO SEEK REMEDIES.—During the period between a notification pursuant to paragraph (2) and the filing of a claim covered by the notification in the United States Court of Federal Claims, the United States National Authority shall pursue all diplomatic and other remedies that the United States National Authority considers necessary and appropriate to seek redress for the claim including, but not limited to, the remedies provided for in the Convention and under this title.

(4) BURDEN OF PROOF.—In any civil action under paragraph (1), the plaintiff shall have the burden to establish a prima facie case that, due to acts or omissions of any official of the Organization or any member of an inspection team of the Technical Secretariat taken under the color of the Convention, proprietary information of the plaintiff has been divulged or taken without authorization. If the United States Court of Federal Claims finds that the plaintiff has demonstrated such a prima facie case, the burden shall shift to the United States to disprove the plaintiff's claim. In deciding whether the plaintiff has carried its burden, the United States Court of Federal Claims shall consider, among other things—

(A) the value of proprietary information;

(B) the availability of the proprietary information;

(C) the extent to which the proprietary information is based on patents, trade secrets, or other protected intellectual property;

(D) the significance of proprietary information; and

(E) the emergence of technology elsewhere a reasonable time after the inspection.

(b) TORT LIABILITY.—The district courts of the United States shall have exclusive jurisdiction of civil actions for money damages for any tort under the Constitution or any Federal or State law arising from the acts or omissions of any officer or employee of the United States or the Organization, including any member of an inspection team of the Technical Secretariat, taken pursuant to or under color of the Convention or this title.

(c) WAIVER OF SOVEREIGN IMMUNITY OF THE UNITED STATES.—In any action under subsection (a) or (b), the United States may not raise sovereign immunity as a defense.

(d) AUTHORITY FOR CAUSE OF ACTION.—

(1) UNITED STATES ACTIONS IN UNITED STATES DISTRICT COURT.—Notwithstanding any other law, the Attorney General of the United States is authorized to bring an action in the United States District Court for the District of Columbia against any foreign nation for money damages resulting from that nation's refusal to provide indemnification to the United States for any liability imposed on the United States by virtue of the actions of an inspector of the Technical Secretariat who is a national of that foreign nation acting in the direction or the behest of that foreign nation.

(2) UNITED STATES ACTIONS IN COURTS OUTSIDE THE UNITED STATES.—The Attorney General is authorized to seek any and all available redress in any international tribunal for indemnification to the United States for any liability imposed on the United States by virtue of the actions of an inspector of the Technical Secretariat, and to seek such re-

dress in the courts of the foreign nation from which the inspector is a national.

(3) ACTIONS BROUGHT BY INDIVIDUALS AND BUSINESSES.—Notwithstanding any other law, any national of the United States, or any business entity organized and operating under the laws of the United States, may bring a civil action in a United States District Court for money damages against any foreign national or any business entity organized and operating under the laws of a foreign nation for an unauthorized or unlawful acquisition, receipt, transmission, or use of property by or on behalf of such foreign national or business entity as a result of any tort under the Constitution or any Federal or State law arising from acts or omissions by any officer or employee of the United States or any member of an inspection team of the Technical Secretariat taken pursuant to or under the color of the Convention or this title.

(e) RECoupMENT.—

(1) POLICY.—It is the policy of the United States to recoup all funds withdrawn from the Treasury of the United States in payment for any tort under Federal or State law or taking under the Constitution arising from the acts or omissions of any foreign person, officer, or employee of the Organization, including any member of an inspection team of the Technical Secretariat, taken under color of the Chemical Weapons Convention or this title.

(2) SANCTIONS ON FOREIGN COMPANIES.—

(A) IMPOSITION OF SANCTIONS.—The sanctions provided in subparagraph (B) shall be imposed for a period of not less than ten years upon—

(i) any foreign person, officer, or employee of the Organization, including any member of an inspection team of the Technical Secretariat, for whose actions or omissions the United States has been held liable for a tort or taking pursuant to this title; and

(ii) any foreign person or business entity organized and operating under the laws of a foreign nation which knowingly assisted, encouraged or induced, in any way, a foreign person described in clause (i) to publish, divulge, disclose, or make known in any manner or to any extent not authorized by the Convention any United States confidential business information.

(B) SANCTIONS.—

(i) ARMS EXPORT TRANSACTIONS.—The United States Government shall not sell to a person described in subparagraph (A) any item on the United States Munitions List and shall terminate sales of any defense articles, defense services, or design and construction services to a person described in subparagraph (A) under the Arms Export Control Act.

(ii) SANCTIONS UNDER EXPORT ADMINISTRATION ACT OF 1979.—The authorities under section 6 of the Export Administration Act of 1979 shall be used to prohibit the export of any goods or technology on the control list established pursuant to section 5(c)(1) of that Act to a person described in subparagraph (A).

(iii) INTERNATIONAL FINANCIAL ASSISTANCE.—The United States shall oppose any loan or financial or technical assistance by international financial institutions in accordance with section 701 of the International Financial Institutions Act to a person described in subparagraph (A).

(iv) EXPORT-IMPORT BANK TRANSACTIONS.—The United States shall not give approval to guarantee, insure, or extend credit, or to participate in the extension of credit to a person described in subparagraph (A) through the Export-Import Bank of the United States.

(v) PRIVATE BANK TRANSACTIONS.—Regulations shall be issued to prohibit any United

States bank from making any loan or providing any credit to a person described in subparagraph (A).

(vi) BLOCKING OF ASSETS.—The President shall take all steps necessary to block any transactions in any property subject to the jurisdiction of the United States in which a person described in subparagraph (A) has any interest whatsoever, for the purpose of recouping funds in accordance with the policy in paragraph (1).

(vii) DENIAL OF LANDING RIGHTS.—Landing rights in the United States shall be denied to any private aircraft or air carrier owned by a person described in subparagraph (A) except as necessary to provide for emergencies in which the safety of the aircraft or its crew or passengers is threatened.

(3) SANCTIONS ON FOREIGN GOVERNMENTS.—

(A) IMPOSITION OF SANCTIONS.—Whenever the President determines that persuasive information is available indicating that a foreign country has knowingly assisted, encouraged or induced, in any way, a person described in paragraph (2)(A) to publish, divulge, disclose, or make known in any manner or to any extent not authorized by the Convention any United States confidential business information, the President shall, within 30 days after the receipt of such information by the executive branch of Government, notify the Congress in writing of such determination and, subject to the requirements of paragraphs (4) and (5), impose the sanctions provided under subparagraph (B) for a period of not less than five years.

(B) SANCTIONS.—

(i) ARMS EXPORT TRANSACTIONS.—The United States Government shall not sell a country described in subparagraph (A) any item on the United States Munitions List, shall terminate sales of any defense articles, defense services, or design and construction services to that country under the Arms Export Control Act, and shall terminate all foreign military financing for that country under the Arms Export Control Act.

(ii) DENIAL OF CERTAIN LICENSES.—Licenses shall not be issued for the export to the sanctioned country of any item on the United States Munitions List or commercial satellites.

(iii) DENIAL OF ASSISTANCE.—No appropriated funds may be used for the purpose of providing economic assistance, providing military assistance or grant military education and training, or extending military credits or making guarantees to a country described in subparagraph (A).

(iv) SANCTIONS UNDER EXPORT ADMINISTRATION ACT OF 1979.—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 the control list established pursuant to section 5(c)(1) of that Act to a country described in subparagraph (A).

(v) INTERNATIONAL FINANCIAL ASSISTANCE.—The United States shall oppose any loan or financial or technical assistance by international financial institutions in accordance with section 701 of the International Financial Institutions Act to a country described in subparagraph (A).

(vi) TERMINATION OF ASSISTANCE UNDER FOREIGN ASSISTANCE ACT OF 1961.—The United States shall terminate all assistance to a country described in subparagraph (A) under the Foreign Assistance Act of 1961, except for urgent humanitarian assistance.

(vii) PRIVATE BANK TRANSACTIONS.—The United States shall not give approval to guarantee, insure, or extend credit, or participate in the extension of credit through the Export-Import Bank of the United States to a country described in subparagraph (A).

(viii) PRIVATE BANK TRANSACTIONS.—Regulations shall be issued to prohibit any United

States bank from making any loan or providing any credit to a country described in subparagraph (A).

(ix) **DENIAL OF LANDING RIGHTS.**—Landing rights in the United States shall be denied to any air carrier owned by a country described in subparagraph (A), except as necessary to provide for emergencies in which the safety of the aircraft or its crew or passengers is threatened.

(4) **SUSPENSION OF SANCTIONS UPON RECOUPMENT BY PAYMENT.**—Sanctions imposed under paragraph (2) or (3) may be suspended if the sanctioned person, business entity, or country, within the period specified in that paragraph, provides full and complete compensation to the United States Government, in convertible foreign exchange or other mutually acceptable compensation equivalent to the full value thereof, in satisfaction of a tort or taking for which the United States has been held liable pursuant to this title.

(5) **WAIVER OF SANCTIONS ON FOREIGN COUNTRIES.**—The President may waive some or all of the sanctions provided under paragraph (3) in a particular case if he determines and certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that such waiver is necessary to protect the national security interests of the United States. The certification shall set forth the reasons supporting the determination and shall take effect on the date on which the certification is received by the Congress.

(6) **NOTIFICATION TO CONGRESS.**—Not later than five days after sanctions become effective against a foreign person pursuant to this title, the President shall transmit written notification of the imposition of sanctions against that foreign person to the chairmen and ranking members of the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(f) **SANCTIONS FOR UNAUTHORIZED DISCLOSURE OF UNITED STATES CONFIDENTIAL BUSINESS INFORMATION.**—The Secretary of State shall deny a visa to, and the Attorney General shall exclude from the United States any alien who, after the date of enactment of this Act—

(1) is, or previously served as, an officer or employee of the Organization and who has willfully published, divulged, disclosed, or made known in any manner or to any extent not authorized by the Convention any United States confidential business information coming to him in the course of his employment or official duties, or by reason of any examination or investigation of any return, report, or record made to or filed with the Organization, or any officer or employee thereof, such practice or disclosure having resulted in financial losses or damages to a United States person and for which actions or omissions the United States has been found liable of a tort or taking pursuant to this title;

(2) traffics in United States confidential business information, a proven claim to which is owned by a United States national;

(3) is a corporate officer, principal, shareholder with a controlling interest of an entity which has been involved in the unauthorized disclosure of United States confidential business information, a proven claim to which is owned by a United States national; or

(4) is a spouse, minor child, or agent of a person excludable under paragraph (1), (2), or (3).

(g) **UNITED STATES CONFIDENTIAL BUSINESS INFORMATION DEFINED.**—In this section, the term "United States confidential business information" means any trade secrets or

commercial or financial information that is privileged and confidential—

(1) including—

(A) data described in section 234(e)(2) of this Act,

(B) any chemical structure,

(C) any plant design process, technology, or operating method,

(D) any operating requirement, input, or result that identifies any type or quantity of chemicals used, processed, or produced, or

(E) any commercial sale, shipment, or use of a chemical, or

(2) as described in section 552(b)(4) of title 5, United States Code,

and that is obtained—

(i) from a United States person; or

(ii) through the United States Government or the conduct of an inspection on United States territory under the Convention.

#### **Subtitle B—Penalties for Unlawful Activities Subject to the Jurisdiction of the United States**

### **CHAPTER 1—CRIMINAL AND CIVIL PENALTIES**

#### **SEC. 221. CRIMINAL AND CIVIL 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 WEAPONS**

**"Sec.**

**"229. Prohibited activities.**

**"229A. Penalties.**

**"229B. Criminal forfeitures; destruction of weapons.**

**"229C. Individual self-defense devices.**

**"229D. Injunctions.**

**"229E. Requests for military assistance to enforce prohibition in certain emergencies.**

**"229F. Definitions.**

#### **"§ 229. Prohibited activities**

**"(a) UNLAWFUL CONDUCT.**—Except as provided in subsection (b), it shall be unlawful for any person knowingly—

**"(1) to develop, produce, otherwise acquire, transfer directly or indirectly, receive, stockpile, retain, own, possess, or use, or threaten to use, any chemical weapon; or**

**"(2) to assist or induce, in any way, any person to violate paragraph (1), or to attempt or conspire to violate paragraph (1).**

**"(b) EXEMPTED AGENCIES AND PERSONS.**—

**"(1) IN GENERAL.**—Subsection (a) does not apply to the retention, ownership, possession, transfer, or receipt of a chemical weapon by a department, agency, or other entity of the United States, or by a person described in paragraph (2), pending destruction of the weapon.

**"(2) EXEMPTED PERSONS.**—A person referred to in paragraph (1) is—

**"(A) any person, including a member of the Armed Forces of the United States, who is authorized by law or by an appropriate officer of the United States to retain, own, possess, transfer, or receive the chemical weapon; or**

**"(B) in an emergency situation, any otherwise nonculpable person if the person is attempting to destroy or seize the weapon.**

**"(c) 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;**

**"(2) takes place outside of the United States and is committed by a national of the United States;**

**"(3) is committed against a national of the United States while the national is outside the United States; or**

**"(4) is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States.**

#### **"§ 229A. Penalties**

**"(a) CRIMINAL PENALTIES.**—

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

**"(2) DEATH PENALTY.**—Any person who violates section 229 of this title and by whose action the death of another person is the result shall be punished by death or imprisoned for life.

**"(b) CIVIL PENALTIES.**—

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

**"(2) RELATION TO OTHER PROCEEDINGS.**—The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

**"(c) REIMBURSEMENT OF COSTS.**—The court shall order any person convicted of an offense under subsection (a) 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.

#### **"§ 229B. Criminal forfeitures; destruction of weapons**

**"(a) PROPERTY SUBJECT TO CRIMINAL FORFEITURE.**—Any person convicted under section 229A(a) shall forfeit to the United States irrespective of any provision of State law—

**"(1) any property, real or personal, owned, possessed, or used by a person involved in the offense;**

**"(2) any property constituting, or derived from, and proceeds the person obtained, directly or indirectly, as the result of such violation; and**

**"(3) any of the property used in any manner or part, to commit, or to facilitate the commission of, such violation.**

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

**"(b) PROCEDURES.**—

**"(1) GENERAL.**—Property subject to forfeiture under this section, any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed by subsections (b) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), except that any reference under those subsections to—

**"(A) 'this subchapter or subchapter II' shall be deemed to be a reference to section 229A(a); and**

**"(B) 'subsection (a)' shall be deemed to be a reference to subsection (a) of this section.**

**"(2) TEMPORARY RESTRAINING ORDERS.**—

**"(A) IN GENERAL.**—For the purposes of forfeiture proceedings under this section, a temporary restraining order may be entered

upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if, in addition to the circumstances described in section 413(e)(2) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853(e)(2)), the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and exigent circumstances exist that place the life or health of any person in danger.

“(B) WARRANT OF SEIZURE.—If the court enters a temporary restraining order under this paragraph, it shall also issue a warrant authorizing the seizure of such property.

“(C) APPLICABLE PROCEDURES.—The procedures and time limits applicable to temporary restraining orders under section 413(e) (2) and (3) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853(e) (2) and (3)) shall apply to temporary restraining orders under this paragraph.

“(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense against a forfeiture under subsection (b) that the property—

“(1) is for a purpose not prohibited under the Chemical Weapons Convention; and

“(2) is of a type and quantity that under the circumstances is consistent with that purpose.

“(d) DESTRUCTION OR OTHER DISPOSITION.—The Attorney General shall provide for the destruction or other appropriate disposition of any chemical weapon seized and forfeited pursuant to this section.

“(e) 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.

“(f) OWNER LIABILITY.—The owner or possessor of any property seized under this section shall be liable to the United States for any expenses incurred incident to the seizure, including any expenses relating to the handling, storage, transportation, and destruction or other disposition of the seized property.

#### “§229C. Individual self-defense devices

“Nothing in this chapter shall be construed to prohibit any individual self-defense device, including those using a pepper spray or chemical mace.

#### “§229D. Injunctions

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

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

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

#### “§229E. 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 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.

#### “§229F. Definitions

“In this chapter:

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

“(A) A toxic chemical and its precursors, except where intended for a purpose not prohibited under this chapter as long as the

type and quantity is consistent with such a purpose.

“(B) A munition or device, specifically designed to cause death or other harm through toxic properties of those toxic chemicals 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 subparagraph (B).

“(2) CHEMICAL WEAPONS CONVENTION; CONVENTION.—The terms ‘Chemical Weapons Convention’ and ‘Convention’ mean the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993.

“(3) KEY COMPONENT OF A BINARY OR MULTICOMPONENT CHEMICAL SYSTEM.—The term ‘key component of a binary or multicomponent chemical system’ means the precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent system.

“(4) 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)).

“(5) PERSON.—The term ‘person’, except as otherwise provided, means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality or political subdivision of any such government or nation, or other entity located in the United States.

“(6) PRECURSOR.—

“(A) IN GENERAL.—The term ‘precursor’ means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. The term includes any key component of a binary or multicomponent chemical system.

“(B) LIST OF PRECURSORS.—Precursors which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

“(7) PURPOSES NOT PROHIBITED BY THIS CHAPTER.—The term ‘purposes not prohibited by this chapter’ means the following:

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

“(B) PROTECTIVE PURPOSES.—Any purpose directly related to protection against toxic chemicals and to protection against chemical weapons.

“(C) UNRELATED MILITARY PURPOSES.—Any military purpose of the United States that is not connected with the use of a chemical weapon or that is not dependent on the use of the toxic or poisonous properties of the chemical weapon to cause death or other harm.

“(D) LAW ENFORCEMENT PURPOSES.—Any law enforcement purpose, including any domestic riot control purpose and including imposition of capital punishment.

“(8) TOXIC CHEMICAL.—

“(A) IN GENERAL.—The term ‘toxic chemical’ means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. The term includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.

“(B) LIST OF TOXIC CHEMICALS.—Toxic chemicals which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

“(9) 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 paragraph (41) of section 40102 of title 49;

“(B) any civil aircraft of the United States or public aircraft, as such terms are defined in paragraphs (17) and (37), respectively, of section 40102 of title 49; 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 AMENDMENTS.—

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

(A) by striking “§2332a. Use of weapons of mass destruction” and inserting “§2332a. Use of certain weapons of mass destruction”;

(B) in subsection (a), by inserting “(other than a chemical weapon as that term is defined in section 229F)” after “weapon of mass destruction”;

(C) in subsection (b), by inserting “(other than a chemical weapon (as that term is defined in section 229F))” after “weapon of mass destruction”.

(2) TABLE OF CHAPTERS.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 11A the following new item:

“11B. Chemical Weapons ..... 229”.

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

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

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

## CHAPTER 2—REVOCATIONS OF EXPORT PRIVILEGES

### SEC. 222. REVOCATIONS OF EXPORT PRIVILEGES.

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 229 of title 18, United States Code, 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 the Export Administration Act of 1979 (50 U.S.C. App. 2415)).

#### Subtitle C—Inspections

### SEC. 231. DEFINITIONS IN THE SUBTITLE.

(a) IN GENERAL.—In this subtitle, the terms “challenge inspection”, “plant site”, “plant”, “facility agreement”, “inspection team”, and “requesting state party” have the meanings given those terms in Part I of the Annex on Implementation and Verification of the Chemical Weapons Convention. The term “routine inspection” means an inspection, other than an “initial inspection”, undertaken pursuant to Article VI of the Convention.

(b) DEFINITION OF JUDGE OF THE UNITED STATES.—In this subtitle, the term “judge of the United States” means a judge or magistrate judge of a district court of the United States.

**SEC. 232. FACILITY AGREEMENTS.**

(a) **AUTHORIZATION OF INSPECTIONS.**—Inspections by the Technical Secretariat of plants, plant sites, or other facilities or locations for which the United States has a facility agreement with the Organization shall be conducted in accordance with the facility agreement. Any such facility agreement may not in any way limit the right of the owner or operator of the facility to withhold consent to an inspection request.

**(b) TYPES OF FACILITY AGREEMENTS.—**

(1) **SCHEDULE TWO FACILITIES.**—The United States National Authority shall ensure that facility agreements for plants, plant sites, or other facilities or locations that are subject to inspection pursuant to paragraph 4 of Article VI of the Convention are concluded unless the owner, operator, occupant, or agent in charge of the facility and the Technical Secretariat agree that such an agreement is not necessary.

(2) **SCHEDULE THREE FACILITIES.**—The United States National Authority shall ensure that facility agreements are concluded for plants, plant sites, or other facilities or locations that are subject to inspection pursuant to paragraph 5 or 6 of Article VI of the Convention if so requested by the owner, operator, occupant, or agent in charge of the facility.

(c) **NOTIFICATION REQUIREMENTS.**—The United States National Authority shall ensure that the owner, operator, occupant, or agent in charge of a facility prior to the development of the agreement relating to that facility is notified and, if the person notified so requests, the person may participate in the preparations for the negotiation of such an agreement. To the maximum extent practicable consistent with the Convention, the owner and the operator, occupant or agent in charge of a facility may observe negotiations of the agreement between the United States and the Organization concerning that facility.

(d) **CONTENT OF FACILITY AGREEMENTS.**—Facility agreements shall—

(1) identify the areas, equipment, computers, records, data, and samples subject to inspection;

(2) describe the procedures for providing notice of an inspection to the owner, occupant, operator, or agent in charge of a facility;

(3) describe the timeframes for inspections; and

(4) detail the areas, equipment, computers, records, data, and samples that are not subject to inspection.

**SEC. 233. AUTHORITY TO CONDUCT INSPECTIONS.**

(a) **PROHIBITION.**—No inspection of a plant, plant site, or other facility or location in the United States shall take place under the Convention without the authorization of the United States National Authority in accordance with the requirements of this subtitle.

**(b) AUTHORITY.—**

(1) **TECHNICAL SECRETARIAT INSPECTION TEAMS.**—Any duly designated member of an inspection team of the Technical Secretariat may inspect any plant, plant site, or other facility or location in the United States subject to inspection pursuant to the Convention.

(2) **UNITED STATES GOVERNMENT REPRESENTATIVES.**—The United States National Authority shall coordinate the designation of employees of the Federal Government to accompany members of an inspection team of the Technical Secretariat and, in doing so, shall ensure that—

(A) a special agent of the Federal Bureau of Investigation, as designated by the Federal Bureau of Investigation, accompanies each inspection team visit pursuant to paragraph (1);

(B) no employee of the Environmental Protection Agency or the Occupational Safety and Health Administration accompanies any inspection team visit conducted pursuant to paragraph (1); and

(C) the number of duly designated representatives shall be kept to the minimum necessary.

**(3) OBJECTIONS TO INDIVIDUALS SERVING AS INSPECTORS.—**

(A) **IN GENERAL.**—In deciding whether to exercise the right of the United States under the Convention to object to an individual serving as an inspector, the President shall give great weight to his reasonable belief that—

(i) such individual is or has been a member of, or a participant in, any group or organization that has engaged in, or attempted or conspired to engage in, or aided or abetted in the commission of, any terrorist act or activity;

(ii) such individual has committed any act or activity which would be a felony under the laws of the United States; or

(iii) the participation of such individual as a member of an inspection team would pose a risk to the national security or economic well-being of the United States.

(B) **NOT SUBJECT TO JUDICIAL REVIEW.**—Any objection by the President to an individual serving as an inspector, whether made pursuant to this section or otherwise, shall not be reviewable in any court.

**SEC. 234. PROCEDURES FOR INSPECTIONS.**

(a) **TYPES OF INSPECTIONS.**—Each inspection of a plant, plant site, or other facility or location in the United States under the Convention shall be conducted in accordance with this section and section 235, except where other procedures are provided in a facility agreement entered into under section 232.

**(b) NOTICE.—**

(1) **IN GENERAL.**—An inspection referred to in subsection (a) may be made only upon issuance of an actual written notice by the United States National Authority to the owner and to the operator, occupant, or agent in charge of the premises to be inspected.

(2) **TIME OF NOTIFICATION.**—The notice for a routine inspection shall be submitted to the owner and to the operator, occupant, or agent in charge within six hours of receiving the notification of the inspection from the Technical Secretariat or as soon as possible thereafter. Notice for a challenge inspection shall be provided at any appropriate time determined by the United States National Authority. Notices may be posted prominently at the plant, plant site, or other facility or location if the United States is unable to provide actual written notice to the owner, operator, or agent in charge of the premises.

**(3) CONTENT OF NOTICE.—**

(A) **IN GENERAL.**—The notice under paragraph (1) shall include all appropriate information supplied by the Technical Secretariat to the United States National Authority concerning—

(i) the type of inspection;

(ii) the basis for the selection of the plant, plant site, or other facility or location for the type of inspection sought;

(iii) the time and date that the inspection will begin and the period covered by the inspection; and

(iv) the names and titles of the inspectors.

(B) **SPECIAL RULE FOR CHALLENGE INSPECTIONS.**—In the case of a challenge inspection pursuant to Article IX of the Convention, the notice shall also include all appropriate evidence or reasons provided by the requesting state party to the Convention for seeking the inspection.

(4) **SEPARATE NOTICES REQUIRED.**—A separate notice shall be provided for each inspection,

except that a notice shall not be required for each entry made during the period covered by the inspection.

(c) **CREDENTIALS.**—The head of the inspection team of the Technical Secretariat and the accompanying employees of the Federal government shall display appropriate identifying credentials to the owner, operator, occupant, or agent in charge of the premises before the inspection is commenced.

(d) **TIMEFRAME FOR INSPECTIONS.**—Consistent with the provisions of the Convention, each inspection shall be commenced and completed with reasonable promptness and shall be conducted at reasonable times, within reasonable limits, and in a reasonable manner.

**(e) SCOPE.—**

(1) **IN GENERAL.**—Except as provided in a warrant issued under section 235 or a facility agreement entered into under section 232, an inspection conducted under this subtitle may extend to all things within the premises inspected (including records, files, papers, processes, controls, structures and vehicles) related to whether the requirements of the Convention applicable to such premises have been complied with.

(2) **EXCEPTION.**—Unless required by the Convention, no inspection under this subtitle shall extend to—

(A) financial data;

(B) sales and marketing data (other than shipment data);

(C) pricing data;

(D) personnel data;

(E) research data;

(F) patent data;

(G) data maintained for compliance with environmental or occupational health and safety regulations; or

(H) personnel and vehicles entering and personnel and personal passenger vehicles exiting the facility.

**(f) SAMPLING AND SAFETY.—**

(1) **IN GENERAL.**—The Director of the United States National Authority is authorized to require the provision of samples to a member of the inspection team of the Technical Secretariat in accordance with the provisions of the Convention. The owner or the operator, occupant or agent in charge of the premises to be inspected shall determine whether the sample shall be taken by representatives of the premises or the inspection team or other individuals present. No sample collected in the United States pursuant to an inspection permitted by this title may be transferred for analysis to any laboratory outside the territory of the United States.

(2) **COMPLIANCE WITH REGULATIONS.**—In carrying out their activities, members of the inspection team of the Technical Secretariat and representatives of agencies or departments accompanying the inspection team shall observe safety regulations established at the premises to be inspected, including those for protection of controlled environments within a facility and for personal safety.

(g) **COORDINATION.**—The appropriate representatives of the United States, as designated, if present, shall assist the owner and the operator, occupant or agent in charge of the premises to be inspected in interacting with the members of the inspection team of the Technical Secretariat.

**SEC. 235. WARRANTS.**

(a) **IN GENERAL.**—The United States Government shall seek the consent of the owner or the operator, occupant, or agent in charge of the premises to be inspected prior to any inspection referred to in section 304(a). If consent is obtained, a warrant is not required for the inspection. The owner or the operator, occupant, or agent in charge of the



premises to be inspected may withhold consent for any reason or no reason. After providing notification pursuant to subsection (b), the United States Government may seek a search warrant from a United States magistrate judge. Proceedings regarding the issuance of a search warrant shall be conducted ex parte, unless otherwise requested by the United States Government.

(b) ROUTINE INSPECTIONS.—

(1) OBTAINING ADMINISTRATIVE SEARCH WARRANTS.—For any routine inspection conducted on the territory of the United States pursuant to Article VI of the Convention, where consent has been withheld, the United States Government shall first obtain an administrative search warrant from a judge of the United States. The United States Government shall provide to the judge of the United States all appropriate information supplied by the Technical Secretariat to the United States National Authority regarding the basis for the selection of the plant site, plant, or other facility or location for the type of inspection sought. The United States Government shall also provide any other appropriate information available to it relating to the reasonableness of the selection of the plant, plant site, or other facility or location for the inspection.

(2) CONTENT OF AFFIDAVITS FOR ADMINISTRATIVE SEARCH WARRANTS.—The judge of the United States shall promptly issue a warrant authorizing the requested inspection upon an affidavit submitted by the United States Government showing that—

(A) the Chemical Weapons Convention is in force for the United States;

(B) the plant site, plant, or other facility or location sought to be inspected is required to report data under subtitle D of this title and is subject to routine inspection under the Convention;

(C) the purpose of the inspection is—

(i) in the case of any facility owned or operated by a non-Government entity related to Schedule 1 chemical agents, to verify that the facility is not used to produce any Schedule 1 chemical agent except for declared chemicals; quantities of Schedule 1 chemicals produced, processed, or consumed are correctly declared and consistent with needs for the declared purpose; and Schedule 1 chemicals are not diverted or used for other purposes;

(ii) in the case of any facility related to Schedule 2 chemical agents, to verify that activities are in accordance with obligations under the Convention and consistent with the information provided in data declarations; and

(iii) in the case of any facility related to Schedule 3 chemical agents and any other chemical production facility, to verify that the activities of the facility are consistent with the information provided in data declarations;

(D) the items, documents, and areas to be searched and seized;

(E) in the case of a facility related to Schedule 2 or Schedule 3 chemical agents or unscheduled discrete organic chemicals, the plant site has not been subject to more than 1 routine inspection in the current calendar year, and, in the case of facilities related to Schedule 3 chemical agents or unscheduled discrete organic chemicals, the inspection will not cause the number of routine inspections in the United States to exceed 20 in a calendar year;

(F) the selection of the site was made in accordance with procedures established under the Convention and, in particular—

(i) in the case of any facility owned or operated by a non-Government entity related to Schedule 1 chemical agents, the intensity, duration, timing, and mode of the requested inspection is based on the risk to the object

and purpose of the Convention by the quantities of chemical produced, the characteristics of the facility and the nature of activities carried out at the facility, and the requested inspection, when considered with previous such inspections of the facility undertaken in the current calendar year, shall not exceed the number reasonably required based on the risk to the object and purpose of the Convention as described above;

(ii) in the case of any facility related to Schedule 2 chemical agents, the Technical Secretariat gave due consideration to the risk to the object and purpose of the Convention posed by the relevant chemical, the characteristics of the plant site and the nature of activities carried out there, taking into account the respective facility agreement as well as the results of the initial inspections and subsequent inspections; and

(iii) in the case of any facility related to Schedule 3 chemical agents or unscheduled discrete organic chemicals, the facility was selected randomly by the Technical Secretariat using appropriate mechanisms, such as specifically designed computer software, on the basis of two weighting factors: (I) equitable geographical distribution of inspections; and (II) the information on the declared sites available to the Technical Secretariat, related to the relevant chemical, the characteristics of the plant site, and the nature of activities carried out there;

(G) the earliest commencement and latest closing dates and times of the inspection; and

(H) the duration of inspection will not exceed time limits specified in the Convention unless agreed by the owner, operator, or agent in charge of the plant.

(3) CONTENT OF WARRANTS.—A warrant issued under paragraph (2) shall specify the same matters required of an affidavit under that paragraph. In addition to the requirements for a warrant issued under this paragraph, each warrant shall contain, if known, the identities of the representatives of the Technical Secretariat conducting the inspection and the observers of the inspection and, if applicable, the identities of the representatives of agencies or departments of the United States accompanying those representatives.

(4) CHALLENGE INSPECTIONS.—

(A) CRIMINAL SEARCH WARRANT.—For any challenge inspection conducted on the territory of the United States pursuant to Article IX of the Chemical Weapons Convention, where consent has been withheld, the United States Government shall first obtain from a judge of the United States a criminal search warrant based upon probable cause, supported by oath or affirmation, and describing with particularity the place to be searched and the person or things to be seized.

(B) INFORMATION PROVIDED.—The United States Government shall provide to the judge of the United States—

(i) all appropriate information supplied by the Technical Secretariat to the United States National Authority regarding the basis for the selection of the plant site, plant, or other facility or location for the type of inspection sought;

(ii) any other appropriate information relating to the reasonableness of the selection of the plant, plant site, or other facility or location for the inspection;

(iii) information concerning—

(I) the duration and scope of the inspection;

(II) areas to be inspected;

(III) records and data to be reviewed; and

(IV) samples to be taken;

(iv) appropriate evidence or reasons provided by the requesting state party for the inspection;

(v) any other evidence showing probable cause to believe that a violation of this title has occurred or is occurring; and

(vi) the identities of the representatives of the Technical Secretariat on the inspection team and the Federal Government employees accompanying the inspection team.

(C) CONTENT OF WARRANT.—The warrant shall specify—

(i) the type of inspection authorized;

(ii) the purpose of the inspection;

(iii) the type of plant site, plant, or other facility or location to be inspected;

(iv) the areas of the plant site, plant, or other facility or location to be inspected;

(v) the items, documents, data, equipment, and computers that may be inspected or seized;

(vi) samples that may be taken;

(vii) the earliest commencement and latest concluding dates and times of the inspection; and

(viii) the identities of the representatives of the Technical Secretariat on the inspection teams and the Federal Government employees accompanying the inspection team.

**SEC. 236. PROHIBITED ACTS RELATING TO INSPECTIONS.**

It shall be unlawful for any person willfully to fail or refuse to permit entry or inspection, or to disrupt, delay, or otherwise impede an inspection, authorized by this title.

**SEC. 237. NATIONAL SECURITY EXCEPTION.**

Consistent with the objective of eliminating chemical weapons, the President may deny a request to inspect any facility in the United States in cases where the President determines that the inspection may pose a threat to the national security interests of the United States.

**SEC. 238. PROTECTION OF CONSTITUTIONAL RIGHTS OF CONTRACTORS.**

(a) The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following:

**“SEC. 39. PROTECTION OF CONSTITUTIONAL RIGHTS OF CONTRACTORS.**

“(a) PROHIBITION.—A contractor may not be required, as a condition for entering into a contract with the Federal Government, to waive any right under the Constitution for any purpose related to Chemical Weapons Convention Implementation Act of 1997 or the Chemical Weapons Convention (as defined in section 203 of such Act.)

“(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed to prohibit an executive agency from including in a contract a clause that requires the contractor to permit inspections for the purpose of ensuring that the contractor is performing the contract in accordance with the provisions of the contract.”.

(b) The table of contents in section 1(b) of such Act is amended by adding at the end the following:

“Sec. 39. Protection of constitutional rights of contractors.”.

**SEC. 239. ANNUAL REPORT ON INSPECTIONS.**

(a) IN GENERAL.—Not later than one year after the date of enactment of this Act, and annually thereafter, the President shall submit a report in classified and unclassified form to the appropriate congressional committees on inspections made under the Convention during the preceding year.

(b) CONTENT OF REPORTS.—Each report shall contain the following information for the reporting period:

(1) The name of each company or entity subject to the jurisdiction of the United States reporting data pursuant to subtitle D of this title.

(2) The number of inspections under the Convention conducted on the territory of the United States.



(3) The number and identity of inspectors conducting any inspection described in paragraph (2) and the number of inspectors barred from inspection by the United States.

(4) The cost to the United States for each inspection described in paragraph (2).

(5) The total costs borne by United States business firms in the course of inspections described in paragraph (2).

(6) A description of the circumstances surrounding inspections described in paragraph (2), including instances of possible industrial espionage and misconduct of inspectors.

(7) The identity of parties claiming loss of trade secrets, the circumstances surrounding those losses, and the efforts taken by the United States Government to redress those losses.

(8) A description of instances where inspections under the Convention outside the United States have been disrupted or delayed.

(c) **DEFINITION.**—The term “appropriate congressional committees” means the Committee on the Judiciary, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary, the Committee on International Relations, and the Permanent Select Committee on Intelligence of the House of Representatives.

#### **SEC. 240. UNITED STATES ASSISTANCE IN INSPECTIONS AT PRIVATE FACILITIES.**

(a) **ASSISTANCE IN PREPARATION FOR INSPECTIONS.**—At the request of an owner of a facility not owned or operated by the United States Government, or contracted for use by or for the United States Government, the Secretary of Defense may assist the facility to prepare the facility for possible inspections pursuant to the Convention.

(b) **REIMBURSEMENT REQUIREMENT.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the owner of a facility provided assistance under subsection (a) shall reimburse the Secretary for the costs incurred by the Secretary in providing the assistance.

(2) **EXCEPTION.**—In the case of assistance provided under subsection (a) to a facility owned by a person described in subsection (c), the United States National Authority shall reimburse the Secretary for the costs incurred by the Secretary in providing the assistance.

(c) **OWNERS COVERED BY UNITED STATES NATIONAL AUTHORITY REIMBURSEMENTS.**—Subsection (b)(2) applies in the case of assistance provided to the following:

(1) **SMALL BUSINESS CONCERNS.**—A small business concern as defined in section 3 of the Small Business Act.

(2) **DOMESTIC PRODUCERS OF SCHEDULE 3 OR UNSCHEDULED DISCRETE ORGANIC CHEMICALS.**—Any person located in the United States that—

(A) does not possess, produce, process, consume, import, or export any Schedule 1 or Schedule 2 chemical; and

(B) in the calendar year preceding the year in which the assistance is to be provided, produced—

(i) more than 30 metric tons of Schedule 3 or unscheduled discrete organic chemicals that contain phosphorous, sulfur, or fluorine; or

(ii) more than 200 metric tons of unscheduled discrete organic chemicals.

#### **Subtitle D—Reports**

#### **SEC. 251. REPORTS REQUIRED BY THE UNITED STATES NATIONAL AUTHORITY.**

(a) **REGULATIONS ON RECORDKEEPING.**—

(1) **REQUIREMENTS.**—The United States National Authority shall ensure that regulations are prescribed that require each person located in the United States who produces, processes, consumes, exports, or imports, or proposes to produce, process, consume, ex-

port, or import, a chemical substance that is subject to the Convention to—

(A) maintain and permit access to records related to that production, processing, consumption, export, or import of such substance; and

(B) submit to the Director of the United States National Authority such reports as the United States National Authority may reasonably require to provide to the Organization, pursuant to subparagraph 1(a) of the Annex on Confidentiality of the Convention, the minimum amount of information and data necessary for the timely and efficient conduct by the Organization of its responsibilities under the Convention.

(2) **RULEMAKING.**—The Director of the United States National Authority shall ensure that regulations pursuant to this section are prescribed expeditiously.

(b) **COORDINATION.**—

(1) **AVOIDANCE OF DUPLICATION.**—To the extent feasible, the United States Government shall not require the submission of any report that is unnecessary or duplicative of any report required by or under any other law. The head of each Federal agency shall coordinate the actions of that agency with the heads of the other Federal agencies in order to avoid the imposition of duplicative reporting requirements under this title or any other law.

(2) **DEFINITION.**—As used in paragraph (1), the term “Federal agency” has the meaning given the term “agency” in section 551(1) of title 5, United States Code.

#### **SEC. 252. PROHIBITION RELATING TO LOW CONCENTRATIONS OF SCHEDULE 2 AND 3 CHEMICALS.**

(a) **PROHIBITION.**—Notwithstanding any other provision of this title, no person located in the United States shall be required to report on, or to submit to, any routine inspection conducted for the purpose of verifying the production, possession, consumption, exportation, importation, or proposed production, possession, consumption, exportation, or importation of any substance that contains less than—

(1) 10 percent concentration of a Schedule 2 chemical; or

(2) 80 percent concentration of a Schedule 3 chemical.

(b) **STANDARD FOR MEASUREMENT OF CONCENTRATION.**—The percent concentration of a chemical in a substance shall be measured on the basis of volume or total weight, which measurement yields the lesser percent.

#### **SEC. 253. PROHIBITION RELATING TO UNSCHEDULED DISCRETE ORGANIC CHEMICALS AND COINCIDENTAL BYPRODUCTS IN WASTE STREAMS.**

(a) **PROHIBITION.**—Notwithstanding any other provision of this title, no person located in the United States shall be required to report on, or to submit to, any routine inspection conducted for the purpose of verifying the production, possession, consumption, exportation, importation, or proposed production, possession, consumption, exportation, or importation of any substance that is—

(1) an unscheduled discrete organic chemical; and

(2) a coincidental byproduct of a manufacturing or production process that is not isolated or captured for use or sale during the process and is routed to, or escapes, from the waste stream of a stack, incinerator, or wastewater treatment system or any other waste stream.

#### **SEC. 254. CONFIDENTIALITY OF INFORMATION.**

(a) **FREEDOM OF INFORMATION ACT EXEMPTION FOR CERTAIN CONVENTION INFORMATION.**—Except as provided in subsection (b) or (c), any confidential business information, as defined in section 213(g), reported to, or otherwise acquired by, the United States

Government under this title or under the Convention shall not be disclosed under section 552(a) of title 5, United States Code.

(b) **EXCEPTIONS.**—

(1) **INFORMATION FOR THE TECHNICAL SECRETARIAT.**—Information shall be disclosed or otherwise provided to the Technical Secretariat or other states parties to the Chemical Weapons Convention in accordance with the Convention, in particular, the provisions of the Annex on the Protection of Confidential Information.

(2) **INFORMATION FOR CONGRESS.**—Information shall be made available to any committee or subcommittee of Congress with appropriate jurisdiction upon the written request of the chairman or ranking minority member of such committee or subcommittee, except that no such committee or subcommittee, and no member and no staff member of such committee or subcommittee, shall disclose such information or material except as otherwise required or authorized by law.

(3) **INFORMATION FOR ENFORCEMENT ACTIONS.**—Information shall be disclosed to other Federal agencies for enforcement of this title or any other law, and shall be disclosed or otherwise provided when relevant in any proceeding under this title or any other law, except that disclosure or provision in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding.

(c) **INFORMATION DISCLOSED IN THE NATIONAL INTEREST.**—

(1) **AUTHORITY.**—The United States Government shall disclose any information reported to, or otherwise required by the United States Government under this title or the Convention, including categories of such information, that it determines is in the national interest to disclose and may specify the form in which such information is to be disclosed.

(2) **NOTICE OF DISCLOSURE.**—

(A) **REQUIREMENT.**—If any Department or agency of the United States Government proposes pursuant to paragraph (1) to publish or disclose or otherwise provide information exempt from disclosure under subsection (a), the United States National Authority shall, unless contrary to national security or law enforcement needs, provide notice of intent to disclose the information—

(i) to the person that submitted such information; and

(ii) in the case of information about a person received from another source, to the person to whom that information pertains. The information may not be disclosed until the expiration of 30 days after notice under this paragraph has been provided.

(B) **PROCEEDINGS ON OBJECTIONS.**—In the event that the person to which the information pertains objects to the disclosure, the agency shall promptly review the grounds for each objection of the person and shall afford the objecting person a hearing for the purpose of presenting the objections to the disclosure. Not later than 10 days before the scheduled or rescheduled date for the disclosure, the United States National Authority shall notify such person regarding whether such disclosure will occur notwithstanding the objections.

(d) **CRIMINAL PENALTY FOR WRONGFUL DISCLOSURE.**—Any officer or employee of the United States, and any former officer or employee of the United States, who by reason of such employment or official position has obtained possession of, or has access to, information the disclosure or other provision of which is prohibited by subsection (a), and who, knowing that disclosure or provision of such information is prohibited by such subsection, willfully discloses or otherwise provides the information in any manner to any

person (including any person located outside the territory of the United States) not authorized to receive it, shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both.

(e) **CRIMINAL FORFEITURE.**—The property of any person who violates subsection (d) shall be subject to forfeiture to the United States in the same manner and to the same extent as is provided in section 229C of title 18, United States Code, as added by this title.

(f) **INTERNATIONAL INSPECTORS.**—The provisions of this section shall also apply to employees of the Technical Secretariat.

#### **SEC. 255. RECORDKEEPING VIOLATIONS.**

It shall be unlawful for any person willfully to fail or refuse—

(1) to establish or maintain any record required by this title or any regulation prescribed under this title;

(2) to submit any report, notice, or other information to the United States Government in accordance with this title or any regulation prescribed under this title; or

(3) to permit access to or copying of any record that is exempt from disclosure under this title or any regulation prescribed under this title.

#### **Subtitle E—Enforcement**

#### **SEC. 261. PENALTIES.**

(a) **CIVIL.**—

(1) **PENALTY AMOUNTS.**—

(A) **PROHIBITED ACTS RELATING TO INSPECTIONS.**—Any person that is determined, in accordance with paragraph (2), to have violated section 236 of this Act shall be required by order to pay a civil penalty in an amount not to exceed \$25,000 for each such violation. For purposes of this paragraph, each day such a violation of section 306 continues shall constitute a separate violation of that section.

(B) **RECORDKEEPING VIOLATIONS.**—Any person that is determined, in accordance with paragraph (2), to have violated section 255 of this Act shall be required by order to pay a civil penalty in an amount not to exceed \$5,000 for each such violation.

(2) **HEARING.**—

(A) **IN GENERAL.**—Before imposing an order described in paragraph (1) against a person under this subsection for a violation of section 236 or 255, the Secretary of State 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.

(B) **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 Secretary of State's imposition of the order shall constitute a final and unappealable order.

(C) **ISSUANCE OF ORDERS.**—If the administrative law judge determines, upon the preponderance of the evidence received, that a person or entity named in the complaint has violated section 236 or 255, the administrative law judge shall state his findings of fact and issue and cause to be served on such person or entity an order described in paragraph (1).

(D) **FACTORS FOR DETERMINATION OF PENALTY 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 respect 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.

(3) **ADMINISTRATIVE APPELLATE REVIEW.**—The decision and order of an administrative

law judge shall become the final agency decision and order of the head of the United States National Authority unless, within 30 days, the head of the United States National Authority modifies or vacates the decision and order, with or without conditions, in which case the decision and order of the head of the United States National Authority shall become a final order under this subsection.

(4) **OFFSETS.**—The amount of the civil penalty under a final order of the United States National Authority may be deducted from any sums owed by the United States to the person.

(5) **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 District of Columbia Circuit or for any other circuit in which the person resides or transacts business.

(6) **ENFORCEMENT OF ORDERS.**—If a person fails to comply with a final order issued under this subsection against the person or entity—

(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (5), or

(B) after a court in an action brought under paragraph (5) has entered a final judgment in favor of the United States National Authority, the Secretary of State 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 paragraph (5) 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.

(b) **CRIMINAL.**—Any person who knowingly violates any provision of section 236 or 255 of this Act, shall, in addition to or in lieu of any civil penalty which may be imposed under subsection (a) for such violation, be fined under title 18, United States Code, imprisoned for not more than one year, or both.

#### **SEC. 262. SPECIFIC ENFORCEMENT.**

(a) **JURISDICTION.**—The district courts of the United States shall have jurisdiction over civil actions to—

(1) restrain any violation of section 236 or 255 of this Act; and

(2) compel the taking of any action required by or under this title or the Convention.

(b) **CIVIL ACTIONS.**—

(1) **IN GENERAL.**—A civil action described in subsection (a) may be brought—

(A) in the case of a civil action described in subsection (a)(1), in the United States district court for the judicial district in which any act, omission, or transaction constituting a violation of section 236 or 255 occurred or in which the defendant is found or transacts business; or

(B) in the case of a civil action described in subsection (a)(2), in the United States district court for the judicial district in which the defendant is found or transacts business.

(2) **SERVICE OF PROCESS.**—In any such civil action process may be served on a defendant wherever the defendant may reside or may be found, whether the defendant resides or may be found within the United States or elsewhere.

#### **SEC. 263. EXPEDITED JUDICIAL REVIEW.**

(a) **CIVIL ACTION.**—Any person or entity subject to a search under this title may file a civil action challenging the constitutionality of any provision of this title. Notwithstanding any other provision of law, during

the full calendar year of, and the two full calendar years following, the enactment of this Act, the district court shall accord such a case a priority in its disposition ahead of all other civil actions except for actions challenging the legality and conditions of confinement.

(b) **EN BANC REVIEW.**—Notwithstanding any other provision of law, during the full calendar year of, and the two full calendar years following, the enactment of this Act, any appeal from a final order entered by a district court in an action brought under subsection (a) shall be heard promptly by the full Court of Appeals sitting en banc.

#### **Subtitle F—Miscellaneous Provisions**

#### **SEC. 271. REPEAL.**

Section 808 of the Department of Defense Appropriation Authorization Act, 1978 (50 U.S.C. 1520; relating to the use of human subjects for the testing of chemical or biological agents) is repealed.

#### **SEC. 272. PROHIBITION.**

(a) **IN GENERAL.**—Neither the Secretary of Defense nor any other officer or employee of the United States may, directly or by contract—

(1) conduct any test or experiment involving the use of any chemical or biological agent on a civilian population; or

(2) use human subjects for the testing of chemical or biological agents.

(b) **CONSTRUCTION.**—Nothing in subsection (a) may be construed to prohibit actions carried out for purposes not prohibited by this title (as defined in section 203(8)).

(c) **BIOLOGICAL AGENT DEFINED.**—In this section, the term "biological agent" means 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—

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

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

(3) deleterious alteration of the environment.

#### **SEC. 273. BANKRUPTCY ACTIONS.**

Section 362(b) of title 11, United States Code, is amended—

(1) by striking paragraphs (4) and (5); and

(2) by inserting after paragraph (3) the following:

"(4) under paragraph (1), (2), (3), or (6) of subsection (a) of this section, of the commencement or continuation of an action or proceeding by a governmental unit or any organization exercising authority under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993, to enforce such governmental unit's or organization's police and regulatory power, including the enforcement of a judgment other than a money judgment, obtained in an action or proceeding by the governmental unit to enforce such governmental unit's or organization's police or regulatory power;"

The **SPEAKER** pro tempore. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] and the gentleman from Indiana [Mr. HAMILTON] each will control 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members

may have 5 legislative days within which to revise and extend their remarks on this measure.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

(Mr. GILMAN asked and was given permission to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, the Iran Missile Proliferation Sanctions Act of 1997 is intended to close loopholes in our counterproliferation laws in order to address a matter of critical concern to our national security, the risk that Iran may soon obtain from firms in Russia and elsewhere the capability of producing its own medium and long-range ballistic missiles.

This legislation enjoys extremely strong support on both sides of the aisle. At last count, over 263 Members had asked to be listed as cosponsors, including both the Speaker, Mr. GINGRICH, and the Democratic leader, Mr. GEPHARDT. A companion measure in the Senate has 84 cosponsors, led by the Senate majority leader, Mr. LOTT, and by Mr. LIEBERMAN of Connecticut.

The urgency for this legislation is apparent from press reports. For more than a year, our Government has been in constant dialog with the Russian leadership regarding Russian assistance to the Iranian ballistic missile program. The meetings have been going on, more talks are scheduled, more summits are held, yet the Iranian military continues to make rapid progress in developing long-range missiles with critically needed assistance from Russian firms. Unless something happens soon, according to press reports, Iran is likely to achieve the ability to produce its own ballistic missiles within less than 1 year.

It is now time for the Congress to say that enough is enough. We need to back up our rhetoric on nonproliferation with meaningful action. With this legislation, we will be giving Russian firms compelling reasons not to trade with Iran. The sanctions which this legislation threatens to impose will force those firms to choose between their short-term profits from dealing with Iran and potentially far more lucrative long-term economic relations with our own Nation.

To make certain that the President takes a careful look at this legislation, the amendment before us also adds to our Iranian sanctions measure the text of Senate 610, the Chemical Weapons Convention Implementation Act of 1997, which passed the Senate unanimously earlier this year. Unlike the Chemical Weapons Convention itself, which was controversial in the Senate, the implementing legislation is strongly supported all across the political spectrum, from the administration to Senators such as JOHN KYL and JESSE HELMS who have led the fight against the Chemical Weapons Convention.

Mr. Speaker, in the 1980's the world stood by as Saddam Hussein built up the Iraqi arsenal of weapons of mass destruction. This bill will help make certain that Iran does not follow the example of its neighbors in Iraq and become the next threat to international stability. Accordingly, I urge my colleagues to join in support of this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this bill, and I oppose it for 3 reasons:

First, the bill links a missile sanctions bill to the Senate-passed Chemical Weapons Convention implementation legislation. The House should consider these bills separately so that S. 610 can proceed quickly to enactment.

Second, this missile sanctions bill is harmful to current United States diplomatic efforts to stop missile technology transfers from Russia to Iran.

And, third, the bill itself is flawed.

Let me spell out these reasons in more detail.

With regard to the first point, the missile sanctions bill and the Chemical Weapons Convention implementation legislation are separate and distinct pieces of legislation. They deserve separate consideration.

Today the United States is out of compliance with its obligations to the Chemical Weapons Convention and will continue to be out of compliance until this implementation legislation, S. 610, is enacted.

We should act on S. 610 as soon as possible. We should send it directly to the President as a freestanding measure and not attach it to another measure and send it back to the Senate.

The sponsors of the missile sanctions bill, H.R. 2709, have attached S. 610 to it because they believe that S. 610 will lead to the swift enactment of the sanctions bill.

The President's National Security Adviser and the Secretary of State strongly oppose the missile sanctions bill. They recommend that he veto it if it is presented to the President in its current form. They also recommend a veto if S. 610 is attached. I quote from the Statement of Administration Policy:

S. 610 has strong bipartisan support from Members on both sides of the aisle. If S. 610 is attached to H.R. 2709, however, the Secretary of State and the National Security Adviser would have no choice other than to recommend that the President veto the combined bill.

So for those of you who support swift passage of the Chemical Weapons Convention implementation legislation, I urge you to oppose this bill. This bill will delay, not speed up, U.S. compliance with the Chemical Weapons Convention.

Second, I believe that Congress and the executive branch certainly share the same policy goal, to stop the transfer of missile technology to Iran. The

question before us is the most effective way to achieve that shared goal.

The gentlewoman from California [Ms. HARMAN] and others deserve credit for their efforts to focus attention on the important issue of missile technology transfers to Iran. I think they have got the right approach, which is to express the strong sense of Congress on the issue. But I do not agree with the approach taken in this bill.

Stopping the transfer of missile technology to Iran requires diplomacy. It requires the President to pursue a high-level diplomatic effort with those countries that provide missile technology to Iran. At the end of the day, this problem is going to be solved by diplomacy.

This is exactly what the administration is doing. The President's envoy, Ambassador Wisner, is conducting negotiations with Russia on this topic. He was in Moscow last week. The administration is working as hard as it can, from the President to the Vice President on down, to stop Russian missile technology transfers to Iran. They believe, the administration, that they are starting to make progress, and they believe they can show a lot more progress between now and January. Senior Russian officials have already indicated that Iranian missiles are not in their interest. Our diplomacy is beginning to achieve results, but we do not yet have a satisfactory result.

□ 2100

That is the view of the Secretary of State, the National Security Advisor, and the Vice President. The Vice President has made a strong plea for a little more time to show results, and we should give it to him. If there is no progress, we can come back to this bill in January.

Third and finally, this missile sanctions bill has several flaws. It establishes too low a threshold for the imposition of sanctions. It would require the executive to report and impose sanctions based on credible information it receives about transfers or attempted transfers of missile-related goods and technology to Iran.

"Credible information" is not defined in the bill and is subject to very broad interpretation. One report or one phone call could be "credible information" and could trigger a requirement to report and to impose sanctions.

The bill does not allow enough time between the requirement to report and the requirement to sanction. Sanctions would have to be imposed no later than 30 days after the date of the required report. In many cases, sanctions can be imposed erroneously, needlessly damaging U.S. credibility with other governments in our efforts to prevent Iran from obtaining missile technology.

The bill has no requirement that actions subject to sanctions be taken knowingly. Sanctions would be imposed on entities unaware that items are going to Iran or will be used in missiles. Such a provision is fundamentally unfair and will undermine U.S.

credibility and the willingness of foreign entities to cooperate with the United States.

The bill's waiver provisions, while a step forward, could be improved further. It lacks flexibility for the President. The bill is retroactive in its application. The bill applies sanctions on U.S. subsidiaries of foreign firms that are sanctioned.

I do not believe Congress has a full understanding of the bill's impact if it is enacted into law. I believe further consultation with the executive branch is necessary. Further consultation would improve this bill so it will strengthen, not undermine, the President's ability to achieve the goals that all of us share to stop Iran's missile program.

So I believe the bill will negatively impact U.S. national interests. It is going to slow down our ability to get the President a bill that he will sign so that he can meet our treaty obligations under the Chemical Weapons Convention. It will be counterproductive to our efforts to stop the transfer of missiles technology to Iran. And as I have indicated, the Secretary and the National Security Advisor are going to recommend that the President veto this bill if it is sent to him in the form that we have it before the House this evening.

I urge a "no" vote.

Mr. Speaker, I reserve the balance of my time.

Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the Iran Missile Proliferation Act introduced by the distinguished chairman of the Committee on International Relations, the gentleman from New York [Mr. GILMAN].

As the gentleman from New York has noted, this legislation is intended to provide additional leverage for the United States in responding to assistance by Russian institutes and research facilities for Iran's medium and long-range missile programs.

H.R. 2709 will close loopholes in existing U.S. sanction laws as these loopholes have been used in the past to avoid sanctioning firms that have transferred missile goods or technology to Iran. It does not target an entire government but, rather, the individuals and entities which are actually the perpetrators of proliferation activities.

The President would be required to submit a report identifying those individuals and entities where there is credible evidence that they have transferred key missile components of technology to Iran. Thirty days after this report, a number of important sanctions denying munition licenses, dual-use technology licenses, and U.S. foreign assistance to these entities, those kind of things will be imposed for a period of at least 2 years on the identified entities.

Mr. Speaker, our distinguished colleague from Indiana [Mr. HAMILTON]

has given quite a list of things that he finds objectionable from the existing legislation. Whether it is this legislation or other legislation, I think it is imperative that this House and the Congress speak out very strongly that we want the kind of proliferation being conducted by Russian entities to Iran to stop. We cannot sit back and be asked simply that the route towards diplomacy be pursued for the next several months. We are at a critical point, and this Congress has a responsibility to say we want action now, it is essential while we are putting much of the Middle East and much of Europe in jeopardy.

Mr. Speaker, the prevention of Iran's acquisition of ballistic missiles and weapons of mass destruction is one of this Nation's most important national security objectives. Iranian possession of ballistic missiles poses an unacceptable threat to the military forces of the United States and its allies throughout the Persian Gulf, Middle East, and southern and southeastern Europe. H.R. 2709 is an important tool to limit the proliferation of the Persian Gulf. I believe it would be irresponsible if we simply took no action, did not express ourself, did not try to pass legislation before we adjourn this year.

Frankly speaking, Mr. Speaker, this legislation would be unnecessary if the executive branch were willing to comply with existing law governing missile technology controls. This is not simply a criticism of this President or this administration, for previous Presidents have been equally reluctant to enforce the law when it comes to sanctions on these crucial matters.

When an administration, this one or a previous one, continually refuses to invoke the law, whether it is the Arms Control Export Act or the refusal to declare that a coup has occurred in Cambodia because the resulting sanctions would reduce the State Department's flexibility, a word we hear often, it demeans the law. It encourages this body to pursue every more stringent sanctions.

Mr. Speaker, this Member hopes that this body can get out of the business of imposing new sanctions, but this will not happen until the executive branch, this one, the previous ones, come into compliance with the law, respect the law as Congress enacts it. This Member therefore would urge the executive branch to adhere to the provisions of H.R. 2709 which I hope this Congress will enact.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMILTON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I ask the gentleman from Nebraska [Mr. BEREUTER], who is controlling time for the majority, if he would yield an additional 3 minutes to me.

Mr. BEREUTER. Mr. Speaker, I yield an additional 3 minutes to the gentleman from California [Mr. BERMAN].

The SPEAKER pro tempore (Mr. CALVERT). The gentleman from California [Mr. BERMAN] is recognized for 6 minutes.

(Mr. BERMAN asked and was given permission to revise and extend his remarks.)

Mr. BERMAN. Mr. Speaker, while I agree with a number of the points made by my dear friend and the ranking member of the Committee on International Relations, I come to a different conclusion on the issue of House passage of this bill, and I rise in support of the passage of H.R. 2930. I think it pays to take a couple of moments to just restate sort of what we know about contributions to the Iranian missile program.

First of all, we know it has been clearly reported, it is not in dispute, that Iran has developed, has a nuclear weapons program. It is also quite clear that Iran has also embarked on a program to develop medium and long-range missiles. The Iranian missile program has been contributed to recently by a number of transfers of technology in parts from the Russian SS-4 intermediate range ballistic missile, and apparently Iran Shihab-3 and Shihab-4 missiles are being designed with Russian assistance to expand to a range of 930 to 1,250 miles. There have been additional reports that Iran is working toward developing a multi-stage intercontinental missile with a range of 3,500 missiles.

When we take their nuclear program and their missile program together, I think everyone in this Chamber can understand just how dangerous this can be if Iran is successful in its pursuits in these areas.

The more sophisticated weapon assistance that Iran receives from abroad, the quicker Iran will realize its goal of a long-range weapon delivery system.

Robert Pelletreau, who was then Assistant Secretary of State for Near Eastern Affairs, testified, only by imposing a real and heavy price can we and other countries convince the Iranian leadership that changing its threatening behavior is in Iran's own interest. That threatening behavior continues, and this legislation is another effort to convince other countries that a real and heavy price must be paid for aiding Iran's weapons program.

I would just like to deal with a couple of the points raised by the gentleman from Indiana [Mr. HAMILTON], the ranking member of the full committee. There are some flaws in this legislation, but I think he would agree, the legislation is significantly improved from the form in which it was introduced. The kind of conduct that it has focused on deals now with violations of the Missile Technology Control Regime and other efforts that are governed by that regime that the administration, and only the administration, certify constitutes significant contributions to the Iranian missile program.

The report that is required by this legislation can now be classified at the discretion of the administration, and it is clear from the report language accompanying this bill that the national security waiver, which has been put into this bill, may be utilized where an entity in any country, and specifically in Russia, has made an improper and illegal transfer.

Remember, Russia has committed to adhering to the Missile Technology Control Regime, but when they make such a transfer, if the administration is assured that they will no longer do so and believes that it is important that those sanctions be waived, they are able to use the national security waiver to do that.

So that even with some of the other flaws, particularly the credible information threshold, which is too low a threshold, I think this legislation is worthy of our support, because it is a forcing mechanism and it is a statement by the House of Representatives that this is a critical problem, that our relationships with Russia and its ability to control the entities within that country that are contributing to this program are going to be seriously affected by its future conduct.

There is no doubt that this administration now is heavily engaged in this issue. They are pressing the Russians hard to cut off that aid. President Clinton, Vice President Gore, and Ambassador Wisner have raised our concern with the Russian leadership, although there is some evidence that assistance continues to flow.

I believe the administration should view the House passage of this legislation as aiding and assisting their efforts to persuade the Russians to cut off all aid to the Iranian missile program and to enforce export controls which will ensure no additional aid leaks out.

I wish that the majority had not combined this bill with the Chemical Weapons Convention Implementation Act of 1997. My fear is that the result of combining these two important pieces of legislation will mean that when this bill gets over in the Senate, neither one will pass. That decision to combine has been made. Both bills are important.

I might point out, by the way, that both Russia and Iran have now ratified the Chemical Weapons Convention, so that passage of the implementing legislation is quite important on its own. My only hope is that if the Senate chooses, for whatever reason, to sever the two bills and send the chemical weapons implementation legislation back to us tomorrow and before we adjourn for the year, that we will take that legislation up separately. But both bills are important, and the decision has been made to combine them, and I would urge my colleagues to support its passage.

Mr. BEREUTER. Mr. Speaker, I yield 3½ minutes to the distinguished gentleman from Pennsylvania [Mr. Fox], a member of the committee.

Mr. FOX of Pennsylvania. Mr. Speaker, we in the House are persuaded that missile transfers from Russia to Iran pose a great threat to the United States and to our allies in the Middle East and Europe. We are especially troubled by reports we received to the effect that Iran is only 9 to 12 months away from achieving an indigenous missile capacity.

We welcome the efforts undertaken with Russia to resolve this problem, but we cannot ignore the reports that we received that since Ambassador Wisner went to work on this problem, the pace of Russian transfers to Iran has increased rather than decreased. At this stage, we therefore feel compelled to act on this matter.

Our legislation is based on a slightly different philosophy than the administration's diplomatic efforts. We are not seeking to coerce the Russian Government to do anything. Rather, we target our sanctions on the Russian entities that are making missile transfers to Iran. Most of these entities are interested in future business dealings with the United States, particularly in the area of aerospace cooperation. The point of our legislation is to tell these entities in no uncertain terms that continued dealings with Iran will be fatal to any future cooperation with the United States.

□ 2115

Our legislation has 263 cosponsors in the House, including its main sponsor, the gentleman from New York, Chairman GILMAN, the Speaker of the House, the Democratic leader; and the companion bill in the Senate has similarly strong support.

The statement of administration policy that has been quoted on the House floor is dated November 7, 1997. H.R. 2709 has been modified since the statement of administration policy was originally written. One of the modifications in the bill was specifically made to address the administration's concerns.

Section 2 of the bill requires the administration to submit a report which identifies those foreign companies where there is credible evidence that they have transferred or retransferred goods or technology or provided technical assistance to Iran's efforts to acquire, develop or produce ballistic missiles.

The bill report from the committee required this administration submit this report in unclassified form. That section now has been modified to allow the report to be classified. The committee is persuaded that such a change will assist the administration's efforts to halt the transfer of missile technology to Iran. We urge the administration to consider this bill modification as it reviews its position on the bill.

I am not surprised the administration does not support the bill. Why? Because the bill does not give the administration the usual loopholes to

avoid sanctioning foreign countries that assist Iran.

The administration's statement of policy states that the standard of evidence sanctions and reporting requirements of H.R. 2709 are broad and vague. Nothing could be further from the truth. The committee report details what we mean by the term "credible information." The report details the three sanctions to be imposed, and the report details sanctions required in the bill. These requirements are neither broad nor vague.

Simply put, Mr. Speaker, the administration does not like this bill because they know they cannot ignore it, they cannot shove it under the table, and the sanctions must go forward, if appropriate.

I would therefore urge our colleagues to support H.R. 2709, the Iran Missile Proliferation Sanctions Act of 1997.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Maryland [Mr. CARDIN].

(Mr. CARDIN asked and was given permission to revise and extend his remarks.)

Mr. CARDIN. Mr. Speaker, I thank the ranking member for yielding me this time.

Mr. Speaker, I rise in support of H.R. 2709, the Iran Missile Proliferation Sanctions Act of 1997. Iran is the leading sponsor of international terrorism. That is a conclusion that has been reached by our President, by our Secretary of State and by the Director of the CIA. The evidence is also clear that Russian entities are aiding the Iranian Government in its efforts to acquire and develop ballistic missiles. Thus, this legislation is needed.

This legislation appropriately imposes sanctions on foreign persons who transfer key missile components or technology to Iran. I understand the concerns that have been expressed by the ranking member, but I think it is important that this House move this legislation forward, and I urge my colleagues to support H.R. 2709.

Mr. BEREUTER. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, although this bill deals primarily with missiles, I would like this body to consider, China just bought 200 SU-27s from Russia, better than our F-14s and F-15s, along with AA-12. China has sold nuclear components and chemical and biological weapons to Iran, Iraq, and Pakistan.

China and Russia are not our friends, and I think it is time that we need to realize that. Yes, we need to engage. I do not think there will be peace in my lifetime in the Middle East, and we need to engage both of those parties, but they are still very, very dangerous.

In Bosnia, there are over 10,000 mujahedin and Hamas surrounding Izetbegovic's government. Yet we in the United States continue to arm the Muslims in that portion of the world, when the balance has gone over.

I would rise in support of this. The Cold War is over, but it is a very, very hostile world, and especially if you look at Russia today is building a first nuclear strike site. Russia today is building under the Ural Mountains a first-strike nuclear weapons site larger than inside the Beltway. That is huge. Why?

Yet we need to arm the President, the White House, and this body, along with the other body, needs to hold firm. While we downgrade our own military, this is a first step in holding the line on proliferation for other countries.

Why downgrade our own military, and let other nations build theirs up, which are not only a threat to us? If you look in Bosnia, that is a threat to Greece, it is a threat to Europe, especially with the mujahedin and Hamas. Yes, we are going to look at some of those same missiles ourselves.

So I laud the gentleman in this bill and rise in support.

Mr. HAMILTON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. ENGEL].

(Mr. ENGEL asked and was given permission to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, I thank my distinguished colleague, the gentleman from Indiana, for yielding me time.

Mr. Speaker, I rise in strong support of H.R. 2709, and I must tell you that I have heretofore resisted any legislation which puts sanctions on Russia or any entities. But I think the time has come that the Congress really needs to take a tough stand.

It is no secret that Russia and Russian companies have been providing technology to Iran and missile goods to Iran. The one thing that strikes me is if you go to the Middle East and you speak with heads of governments of all of the countries, Israel and the Arab States may have many disagreements, but the one thing on which they all agree is that Iran is the threat to the region. You will hear the same thing in Jerusalem, the capital of Israel, as you will hear in Cairo, the capital of Egypt, as you will hear in Riyadh, the capital of Saudi Arabia, and all the Persian Gulf countries. While at the moment we are focused on Iraq and the crisis there with Iraq, the governments will all say the long-range threat comes from Iran.

When we look to see which countries are assisting Iran in developing this technology, we look to China, and the President has had an agreement with the Chinese leadership to stop any kind of transfer of technology to Iran. We look to North Korea, they have done it; and, of course, Russia.

I think that it is very, very important that the Russian Government and the Russian companies understand that our patience has worn thin; that because Iran is not only a threat to the region, but indeed a threat to the world, supporting terrorism, we do not feel that we can simply let the status quo continue.

Iran has the capability and will have the capability in a few months to be able to strike out and hit all the countries that I mentioned if it goes unchecked. Now, it is clear that Russia has already provided Iran with critical know-how and technological support. The question facing us now is whether we can halt any further assistance, and time is short. As I mentioned, we have but a few months to prevent Iran from achieving a significant advance in its missile program.

Most critical in the short term is the prospect of Iran enhancing its ballistic missile capacity. Iranian acquisition of ballistic missiles with a range of 1,300 kilometers or more poses an unacceptable threat to American forces in the Middle East, as well as our allies throughout the Persian Gulf region.

It is hard for me to believe that Russia's assistance to Iran does not violate Russia's international obligations as an adherent to the Missile Technology Control Regime, the MTCR. It is also inconceivable to me that such transfers would not trigger U.S. missile sanction laws.

I think it is time for this Congress to stand tall and to say to Russia and Russian companies that we are not going to permit this transfer, and H.R. 2709 goes a long way in that direction.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. NADLER].

(Mr. NADLER asked and was given permission to revise and extend his remarks.)

Mr. NADLER. Mr. Speaker, I rise in strong support of H.R. 2709. This bill would force the President to impose sanctions on entities that assist Iran's missile program, mostly Russian, perhaps some Chinese entities, perhaps some European entities as well.

Mr. Speaker, others have expressed well the dangers that Iranian missiles, perhaps armed eventually with nuclear warheads, pose to Israel, to some of our Arab quasi-allies, and to American security interests.

Russian help and Chinese help for this development is not a friendly act, and is the most profoundly irresponsible act, and the administration, for all its protestation, has shown a pattern of certifying when Congress passed this law that says, we do not want most-favored-nation treatment, we have seen that when we pass laws that say that this or that should not be done unless the President certifies that human rights are being adhered to or that nonproliferation is being adhered to, the certification comes whether the facts support them or not all too often. So I think it is time for Congress to step in and tighten the legal regime, as this bill does, to make it more clear that these sanctions must be imposed.

I also think that, given the sometimes unclear circumstances as to whether the Russian Government has effective control over these entities, that it is good that this legislation applies directly to these business enti-

ties, and not simply to the foreign governments.

So I support this legislation. I regret the necessity of it, but it is time to step in with this kind of legislation to reduce the likelihood that we will be faced with the kind of foreign policy catastrophe that will be presented by Iranian possession and threat of use of long-range missiles.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, I think there is an unfortunate problem that has occurred on this bill that Members should be aware of. I was an original cosponsor of the original 2709, but the bill before us is not that bill, because the bill before us also includes the chemical weapons convention implementing legislation.

Now, there is a real problem for this, and Members should know about that. If the President should decide to veto 2709, which there has been some talk of, he will also veto the chemical weapons convention legislation, the legislation that implements it.

For years we have been fighting for a chemical weapons convention. It would be a tragedy if tonight, by just a mistake, if people think they are only voting for 2709. They must know they are putting at jeopardy the chemical weapons convention implementing legislation.

I would urge Members to vote against 2709, even though, as I say, I was a cosponsor, in order to protect that chemical weapons convention. A no vote will protect the chemical weapons convention.

Mr. HAMILTON. Mr. Speaker, I yield back the balance of my time.

Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a bipartisan coalition of Members of this House, a strong one, want to have action on the chemical weapons convention. We also want to see the implementation of it. We also want to see action on the Iran missile proliferation issue.

We understand the larger picture with respect to Russia. We understand the administration's position on that. We understand the importance the administration understandably places on a Russian-American joint space exploration program.

We have listened to the distinguished Vice President of the United States. We have listened to the highest officials in the Clinton administration. We have heard their arguments on this issue.

□ 2130

But collectively, a large majority of people on both sides of the aisle in this House, and indeed in the other body, believe that we have waited long enough to see the imposition of effective sanctions brought to bear upon the Russian entities that seem to be providing missile technology to Iran. We are unwilling to bear the risk of further delays in implementing sanctions.

We are sending a very, very clear message to the government of Russia that we want entities in Russia to stop providing this kind of cooperation to the government of Iran.

Mr. Speaker, because it places in jeopardy very large parts of the Persian Gulf, our allies in the Middle East, and major parts of Europe, we want to have action on this issue. We see the only way to have a likelihood that the President will sign the legislation is attaching it to the implementation legislation for the Chemical Weapons Convention. Alternatively, we can see the Iranians developing the missile capacity that enables them to bring great explosive destruction or even weapons of mass destruction to bear on the Persian Gulf, on the Middle East and Europe. Therefore, we urge our colleagues to support H.R. 2709.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore [Mr. CALVERT]. All time has expired.

The question is on the motion offered by the gentleman from Nebraska [Mr. BEREUTER] that the House suspend the rules and pass the bill, H.R. 2709, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The title of the bill was amended so as to read:

A bill to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles, and to implement the obligations of the United States under the Chemical Weapons Convention.

A motion to reconsider was laid on the table.

### GENERAL LEAVE

Mr. BEREUTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

### BANKRUPTCY AMENDMENTS OF 1997

Mr. GEKAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 764) to make technical corrections to title 11, United States Code, and for other purposes, as amended.

The Clerk read as follows:

H.R. 764

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Bankruptcy Amendments of 1997".*

#### SEC. 2. DEFINITIONS.

Section 101 of title 11, United States Code, is amended—

(1) by striking "In this title—" and inserting "In this title:";

(2) in each paragraph by inserting "The term" after the paragraph designation,

(3) in paragraph (35)(B) by striking "paragraphs (21B) and (33)(A)" and inserting "paragraphs (23) and (35)"

(4) in paragraphs (35A) and (38) by striking "and" at the end and inserting a period,

(5) in paragraph (51B)—

(A) by inserting "who is not a family farmer" after "debtor" the first place it appears, and

(B) by striking "\$4,000,000" and inserting "\$15,000,000 as of the date of the filing of the petition";

(6) by amending paragraph (54) to read as follows:

"(54) The term 'transfer' means—

"(A) creation of a lien;

"(B) retention of title as a security interest;

"(C) foreclosure of the debtor's equity of redemption; or

"(D) every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property;"

(7) in paragraphs (1) through (35), in paragraphs (36) and (37), and in paragraphs (40) through (55), including paragraph (54) as added by this section, by striking the semicolon at the end and inserting a period, and

(8) by redesignating paragraphs (4) through (55), including paragraph (54) as added by this section, in entirely numerical sequence.

#### SEC. 3. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104 of title 11, United States Code, is amended by inserting "522(f)(3)," after "522(d)," each place it appears.

#### SEC. 4. EXTENSION OF TIME.

Section 108(c)(2) of title 11, United States Code, is amended by striking "922" and all that follows through "or", and inserting "922, 1201, or".

#### SEC. 5. PENALTY FOR PERSONS WHO NEGLIGENCE OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

Section 110(j)(3) of title 11, United States Code, is amended by striking "attorney's" and inserting "attorneys" .

#### SEC. 6. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.

Section 328(a) of title 11, United States Code, is amended by inserting "on a fixed or percentage fee basis," after "hourly basis,".

#### SEC. 7. COMPENSATION TO OFFICERS.

Section 330(a) of title 11, United States Code, is amended—

(1) in paragraph (1) by inserting ", or the debtor's attorney" after "1103", and

(2) in paragraph (3) by striking "(3)(A) In" and inserting "(3) In".

#### SEC. 8. SPECIAL TAX PROVISIONS.

Section 346(g)(1)(C) of title 11, United States Code, is amended by striking ", except" and all that follows through "1986".

#### SEC. 9. EFFECT OF CONVERSION.

Section 348(f)(2) of title 11, United States Code, is amended by inserting "of the estate" after "property" the first place it appears.

#### SEC. 10. AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (17) by striking "or" at the end,

(2) in paragraph (18) by striking the period at the end and inserting "or", and

(3) by adding at the end the following:

"(19) under subsection (a) of this section, of any transfer that is not avoidable under section 544 and not avoidable under section 549.".

#### SEC. 11. DEFAULTS BASED ON NONMONETARY OBLIGATIONS.

(a) EXECUTORY CONTRACTS AND UNEXPIRED LEASES.—Section 365 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A) by striking the semicolon at the end and inserting the following:

"other than a default that is a breach of a provision relating to—

"(i) the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption; or

"(ii) the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an executory contract, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption and if the court determines, based on the equities of the case, that this subparagraph should not apply with respect to such default;" and

(B) by amending paragraph (2)(D) to read as follows:

"(D) the satisfaction of any penalty rate or penalty provision relating to a default arising from a failure to perform nonmonetary obligations under an executory contract or under an unexpired lease of real or personal property.".

(2) in subsection (c)—

(A) in paragraph (2) by adding "or" at the end,

(B) in paragraph (3) by striking "or" at the end and inserting a period, and

(C) by striking paragraph (4),

(3) in subsection (d)—

(A) by striking paragraphs (5) through (9), and

(B) by redesignating paragraph (10) as paragraph (5).

(4) in subsection (f)(1) by striking "except that" and all that follows through the end of the paragraph and inserting a period.

(b) IMPAIRMENT OF CLAIMS OR INTERESTS.—Section 1124(2) of title 11, United States Code, is amended—

(1) in subparagraph (A) by inserting "or of a kind that section 365(b)(1)(A) of this title expressly does not require to be cured" before the semicolon at the end,

(2) in subparagraph (C) by striking "and" at the end,

(3) by redesignating subparagraph (D) as subparagraph (E), and

(4) by inserting after subparagraph (C) the following:

"(D) if such claim or such interest arises from any failure to perform a nonmonetary obligation, compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and".

#### SEC. 12. AMENDMENT TO TABLE OF SECTIONS.

The table of sections for chapter 5 of title 11, United States Code, is amended by striking the item relating to section 556 and inserting the following:

"556. Contractual right to liquidate a commodities contract or forward contract."

#### SEC. 13. ALLOWANCE OF ADMINISTRATIVE EXPENSES.

Section 503(b)(4) of title 11, United States Code, is amended by inserting "subparagraph (A), (B), (C), (D), or (E) of" before "paragraph (3)".

#### SEC. 14. PRIORITIES.

Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (3)(B) by striking the semicolon at the end and inserting a period, and

(2) in paragraph (7) by inserting "unsecured" after "allowed".

#### SEC. 15. EXEMPTIONS.

Section 522 of title 11, United States Code, is amended—