

105TH CONGRESS  
1ST SESSION

# S. 495

---

## AN ACT

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

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

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

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

1 (b) TABLE OF CONTENTS.—The table of contents for  
 2 this Act is as follows:

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

TITLE I—PENALTIES FOR UNLAWFUL ACTIVITIES SUBJECT TO  
 THE JURISDICTION OF THE UNITED STATES

Subtitle A—Criminal and Civil Penalties

- Sec. 101. Criminal and civil provisions.

Subtitle B—Revocations of Export Privileges

- Sec. 111. Revocations of export privileges.

TITLE II—FOREIGN RELATIONS AND DEFENSE-RELATED  
 PROVISIONS

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

3 **SEC. 2. FINDINGS.**

4 The Congress finds that—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 **SEC. 3. POLICY.**

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

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

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

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

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

23 **SEC. 4. DEFINITIONS.**

24 In this Act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Sec.

“229. Prohibited activities.

“229A. Penalties.

“229B. Criminal forfeitures; destruction of weapons.

“229C. Other prohibitions.

“229D. Injunctions.

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

“229F. Definitions.

1 **“§ 229. Prohibited activities.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 “(c) EXEMPTED AGENCIES AND PERSONS.—

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

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

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

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

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

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

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

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

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

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

6 **“§ 229A. Penalties**

7           “(a) CRIMINAL PENALTIES.—

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

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

15           “(b) CIVIL PENALTIES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11        **“§ 229C. Other prohibitions**

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

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

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

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

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

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

6   **“§ 229D. Injunctions**

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

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

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

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

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

24   **“§ 229F. Definitions**

25           “In this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 “(B) appear to be intended—

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

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

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

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

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

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

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

24                  (b) CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 and

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

13 **“SEC. 306. PURPOSE.**

14 “The purpose of sections 306 through 311 is—

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

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

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

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

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

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

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

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

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

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

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

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

5 **“SEC. 308. MANDATORY SANCTIONS.**

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

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

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

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

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

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

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

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

8           “(8) AVIATION RIGHTS.—

9           “(A) IN GENERAL.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

4 **“SEC. 311. DEFINITIONS.**

5           “In sections 306 through 310:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (d) CONSULTATIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23          (f) DEFINITIONS.—

24               (1) BILATERAL DESTRUCTION AGREEMENT.—

25          The term “Bilateral Destruction Agreement” means

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

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

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

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

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

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

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

11 (1) **PROLIFERATION BY FOREIGN COUNTRIES.—**

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (d) UNITED STATES ARMY CHEMICAL SCHOOL.—

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

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

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

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

19 (e) REPORT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (c) DEFINITIONS.—In this section:

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

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

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

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

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

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

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

20           (1) peacekeeping or peace support operations;

21           (2) humanitarian or disaster relief operations;

22           (3) noncombatant evacuation operations;

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

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

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

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

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

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

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

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

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

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

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

Passed the Senate April 17, 1997.

Attest:

*Secretary.*

105<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

---

**S. 495**

---

**AN ACT**

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