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13 *The table of contents for this Act is as follows:*

- Sec. 1. Short title.*
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- Sec. 3. Definitions.*

TITLE I—GENERAL PROVISIONS

- Sec. 101. Designation of United States National Authority.*
- Sec. 102. No abridgement of constitutional rights.*
- Sec. 103. Civil liability of the United States.*

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

Subtitle A—Criminal and Civil Penalties

- Sec. 201. Criminal and civil provisions.*

Subtitle B—Revocations of Export Privileges

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- Sec. 301. Definitions in the title.*
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- Sec. 307. National security exception.
- Sec. 308. Protection of constitutional rights of contractors.
- Sec. 309. Annual report on inspections.
- Sec. 310. United States assistance in inspections at private facilities.

TITLE IV—REPORTS

- Sec. 401. Reports required by the United States National Authority.
- Sec. 402. Prohibition relating to low concentrations of schedule 2 and 3 chemicals.
- Sec. 403. Prohibition relating to unscheduled discrete organic chemicals and incidental byproducts in waste streams.
- Sec. 404. Confidentiality of information.
- Sec. 405. Recordkeeping violations.

TITLE V—ENFORCEMENT

- Sec. 501. Penalties.
- Sec. 502. Specific enforcement.
- Sec. 503. Expedited judicial review.

TITLE VI—MISCELLANEOUS PROVISIONS

- Sec. 601. Repeal.
- Sec. 602. Prohibition.
- Sec. 603. Bankruptcy actions.

1 SEC. 3. DEFINITIONS.

2 In this Act:

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

5 (A) A toxic chemical and its precursors, ex-
6 cept where intended for a purpose not prohibited
7 under this Act as long as the type and quantity
8 is consistent with such a purpose.

9 (B) A munition or device, specifically de-
10 signed to cause death or other harm through
11 toxic properties of those toxic chemicals specified
12 in subparagraph (A) which would be released as
13 a result of the employment of such munition or
14 device.

1 (C) Any equipment specifically designed for
2 use directly in connection with the employment
3 of munitions or devices specified in subpara-
4 graph (B).

5 (2) CHEMICAL WEAPONS CONVENTION; CONVEN-
6 TION.—The terms “Chemical Weapons Convention”
7 and “Convention” mean the Convention on the Prohi-
8 bition of the Development, Production, Stockpiling
9 and Use of Chemical Weapons and on Their Destruc-
10 tion, opened for signature on January 13, 1993.

11 (3) KEY COMPONENT OF A BINARY OR MULTI-
12 COMPONENT CHEMICAL SYSTEM.—The term “key com-
13 ponent of a binary or multicomponent chemical sys-
14 tem” means the precursor which plays the most im-
15 portant role in determining the toxic properties of the
16 final product and reacts rapidly with other chemicals
17 in the binary or multicomponent system.

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

23 (5) ORGANIZATION.—The term “Organization”
24 means the Organization for the Prohibition of Chemi-
25 cal Weapons.

1 (6) *PERSON*.—The term “person”, except as oth-
2 erwise provided, means any individual, corporation,
3 partnership, firm, association, trust, estate, public or
4 private institution, any State or any political sub-
5 division thereof, or any political entity within a
6 State, any foreign government or nation or any agen-
7 cy, instrumentality or political subdivision of any
8 such government or nation, or other entity located in
9 the United States.

10 (7) *PRECURSOR*.—

11 (A) *IN GENERAL*.—The term “precursor”
12 means any chemical reactant which takes part
13 at any stage in the production by whatever
14 method of a toxic chemical. The term includes
15 any key component of a binary or multicompo-
16 nent chemical system.

17 (B) *LIST OF PRECURSORS*.—Precursors
18 which have been identified for the application of
19 verification measures under Article VI of the
20 Convention are listed in schedules contained in
21 the Annex on Chemicals of the Chemical Weap-
22 ons Convention.

23 (8) *PURPOSES NOT PROHIBITED BY THIS ACT*.—

24 The term “purposes not prohibited by this Act”
25 means the following:

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

5 (B) *PROTECTIVE PURPOSES.*—Any purpose
6 directly related to protection against toxic
7 chemicals and to protection against chemical
8 weapons.

9 (C) *UNRELATED MILITARY PURPOSES.*—
10 Any military purpose of the United States that
11 is not connected with the use of a chemical weap-
12 on and that is not dependent on the use of the
13 toxic or ~~poisonous~~ properties of the chemical
14 weapon to cause death or other harm.

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

19 (9) *TECHNICAL SECRETARIAT.*—The term “Tech-
20 nical Secretariat” means the Technical Secretariat of
21 the Organization for the Prohibition of Chemical
22 Weapons established by the Chemical Weapons Con-
23 vention.

1 (10) SCHEDULE 1 CHEMICAL AGENT.—The term
 2 “Schedule 1 chemical agent” means any of the follow-
 3 ing, together or separately:

4 (A) O-Alkyl ($\leq C_{10}$, incl. cycloalkyl) alkyl

5 (Me, Et, n-Pr or i-Pr)-

6 phosphonofluoridates

7 (e.g. Sarin: O-Isopropyl

8 methylphosphonofluoridate Soman: O-

9 Pinacolyl methylphosphonofluoridate).

10 (B) O-Alkyl ($\leq C_{10}$, incl. cycloalkyl) N,N-

11 dialkyl

12 (Me, Et, n-Pr or i-Pr)-

13 phosphoramidocyanidates

14 (e.g. Tabun: O-Ethyl N,N-dimethyl

15 phosphoramidocyanidate).

16 (C) O-Alkyl (H or $\leq C_{10}$, incl. cycloalkyl) S-

17 2-dialkyl

18 (Me, Et, n-Pr or i-Pr)-aminoethyl

19 alkyl

20 (Me, Et, n-Pr or i-Pr)

21 phosphonothiolates and corresponding

22 alkylated or protonated salts

23 (e.g. VX: O-Ethyl S-2-

24 diisopropylaminoethyl methyl phosphono-

25 thiolate).

- 1 (D) Sulfur mustards:
- 2 2-Chloroethylchloromethylsulfide
- 3 Mustard gas: Bis(2-chloroethyl)sulfide
- 4 Bis(2-chloroethylthio)methane
- 5 Sesquimustard: 1,2-Bis(2-
- 6 chloroethylthio)ethane
- 7 1,3-Bis(2-chloroethylthio)-n-propane
- 8 1,4-Bis(2-chloroethylthio)-n-butane
- 9 1,5-Bis(2-chloroethylthio)-n-pentane
- 10 Bis(2-chloroethylthiomethyl)ether
- 11 O-Mustard: Bis(2-
- 12 chloroethylthioethyl)ether.
- 13 (E) Lewisites:
- 14 Lewisite 1: 2-Chlorovinylchloroarsine
- 15 Lewisite 2: Bis(2-
- 16 chlorovinyl)chloroarsine
- 17 Lewisite 3: Tris (2-chlorovinyl)arsine.
- 18 (F) Nitrogen mustards:
- 19 HN1: Bis(2-chloroethyl)ethylamine
- 20 HN2: Bis(2-chloroethyl)methylamine
- 21 HN3: Tris(2-chloroethyl)amine.
- 22 (G) Saxitoxin.
- 23 (H) Ricin.
- 24 (I) Alkyl (Me, Et, n-Pr or i-Pr)
- 25 phosphoryldifluorides

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-diisopropyl-

aminoethyl methylphosphonite.

(K) Chlorosarin: O-Isopropyl methyl-

phosphonochloridate.

(L) Chlorosoman: O-Pinacolyl

methylphosphonochloridate.

(11) SCHEDULE 2 CHEMICAL AGENT.—The term
“Schedule 2 chemical agent” means the following, to-
gether 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

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

6 e.g. Methylphosphonyl dichloride Di-
7 methyl methylphosphonate

8 Exemption: Fonofos: O-Ethyl S-phenyl
9 ethylphosphonothiothionate.

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

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

14 (G) arsenic trichloride.

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

16 (I) Quinuclidine-3-ol.

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

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

23 Exemptions: N,N-Dimethylaminoeth-
24 anol and corresponding protonated salts

1 *N,N*-Diethylaminoethanol and correspond-
2 ing protonated salts.

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

6 (M) Thiodiglycol: Bis(2-hydroxyethyl)sul-
7 fide.

8 (N) Pinacolyl alcohol: 3,3-Dimethylbutane-
9 2-ol.

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

13 (A) Phosgene: carbonyl dichloride.

14 (B) Cyanogen chloride.

15 (C) Hydrogen cyanide.

16 (D) Chloropicrin: trichloronitromethane.

17 (E) Phosphorous oxychloride.

18 (F) Phosphorous trichloride.

19 (G) Phosphorous pentachloride.

20 (H) Trimethyl phosphite.

21 (I) Triethyl phosphite.

22 (J) Dimethyl phosphite.

23 (K) Diethyl phosphite.

24 (L) Sulfur monochloride.

25 (M) Sulfur dichloride.

1 (N) Thionyl chloride.

2 (O) Ethyldiethanolamine.

3 (P) Methyldiethanolamine.

4 (O) Triethanolamine.

5 (13) TOXIC CHEMICAL.—

6 (A) IN GENERAL.—The term “toxic chemi-
7 cal” means any chemical which through its
8 chemical action on life processes can cause death,
9 temporary incapacitation or permanent harm to
10 humans or animals. The term includes all such
11 chemicals, regardless of their origin or of their
12 method of production, and regardless of whether
13 they are produced in facilities, in munitions or
14 elsewhere.

15 (B) LIST OF TOXIC CHEMICALS.—Toxic
16 chemicals which have been identified for the ap-
17 plication of verification measures under Article
18 VI of the Convention are listed in schedules con-
19 tained in the Annex on Chemicals of the Chemi-
20 cal Weapons Convention.

21 (14) UNITED STATES.—The term “United
22 States” means the several States of the United States,
23 the District of Columbia, and the commonwealths, ter-
24 ritories, and possessions of the United States and in-

1 *cludes all places under the jurisdiction or control of*
2 *the United States, including—*

3 *(A) any of the places within the provisions*
4 *of paragraph (41) of section 40102 of title 49,*
5 *United States Code;*

6 *(B) any civil aircraft of the United States*
7 *or public aircraft, as such terms are defined in*
8 *paragraphs (17) and (37), respectively, of section*
9 *40102 of title 49, United States Code; and*

10 *(C) any vessel of the United States, as such*
11 *term is defined in section 3(b) of the Maritime*
12 *Drug Enforcement Act, as amended (46 U.S.C.,*
13 *App. sec. 1903(b)).*

14 *(15) UNSCHEDULED DISCRETE ORGANIC CHEMI-*
15 *CAL.—The term “unscheduled discrete organic chemi-*
16 *cal” means any chemical not listed on any schedule*
17 *contained in the Annex on Chemicals of the Conven-*
18 *tion that belongs to the class of chemical compounds*
19 *consisting of all compounds of carbon, except for its*
20 *oxides, sulfides, and metal carbonates.*

21 **TITLE I—GENERAL PROVISIONS**

22 **SEC. 101. DESIGNATION OF UNITED STATES NATIONAL AU-** 23 **THORITY.**

24 *(a) DESIGNATION.—Pursuant to paragraph 4 of Arti-*
25 *cle VII of the Chemical Weapons Convention, the President*

1 shall designate the Department of State to be the United
2 States National Authority.

3 (b) *PURPOSES.*—The United States National Author-
4 ity shall—

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

9 (2) implement the provisions of this Act in co-
10 ordination with an interagency group designated by
11 the President consisting of the Secretary of Commerce,
12 Secretary of Defense, Secretary of Energy, the Attor-
13 ney General, and the heads of agencies considered nec-
14 essary or advisable by the President.

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

17 (d) *POWERS.*—The Director may utilize the adminis-
18 trative authorities otherwise available to the Secretary of
19 State in carrying out the responsibilities of the Director set
20 forth in this Act.

21 (e) *IMPLEMENTATION.*—The President is authorized to
22 implement and carry out the provisions of this Act and the
23 Convention and shall designate through Executive order
24 which agencies of the United States shall issue, amend, or
25 revise the regulations in order to implement this Act and

1 *the provisions of the Convention. The Director of the United*
2 *States National Authority shall report to the Congress on*
3 *the regulations that have been issued, implemented, or re-*
4 *vised pursuant to this section.*

5 **SEC. 102. NO ABRIDGEMENT OF CONSTITUTIONAL RIGHTS.**

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

11 **SEC. 103. CIVIL LIABILITY OF THE UNITED STATES.**

12 **(a) CLAIMS FOR TAKING OF PROPERTY.—**

13 **(1) JURISDICTION OF COURTS OF THE UNITED**
14 **STATES.—**

15 **(A) UNITED STATES COURT OF FEDERAL**
16 **CLAIMS.—***The United States Court of Federal*
17 *Claims shall, subject to subparagraph (B), have*
18 *jurisdiction of any civil action or claim against*
19 *the United States for any taking of property*
20 *without just compensation that occurs by reason*
21 *of the action of any officer or employee of the Or-*
22 *ganization for the Prohibition of Chemical*
23 *Weapons, including any member of an inspec-*
24 *tion team of the Technical Secretariat, or by rea-*
25 *son of the action of any officer or employee of the*

1 *United States pursuant to this Act or the Con-*
2 *vention. For purposes of this subsection, action*
3 *taken pursuant to or under the color of this Act*
4 *or the Convention shall be deemed to be action*
5 *taken by the United States for a public purpose.*

6 (B) *DISTRICT COURTS.—The district courts*
7 *of the United States shall have original jurisdic-*
8 *tion, concurrent with the United States Court of*
9 *Federal Claims, of any civil action or claim de-*
10 *scribed in subparagraph (A) that does not exceed*
11 *\$10,000.*

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

22 (3) *INITIAL STEPS BY UNITED STATES GOVERN-*
23 *MENT TO SEEK REMEDIES.—During the period be-*
24 *tween a notification pursuant to paragraph (2) and*
25 *the filing of a claim covered by the notification in the*

1 *United States Court of Federal Claims, the United*
2 *States National Authority shall pursue all diplomatic*
3 *and other remedies that the United States National*
4 *Authority considers necessary and appropriate to seek*
5 *redress for the claim including, but not limited to, the*
6 *remedies provided for in the Convention and under*
7 *this Act.*

8 (4) *BURDEN OF PROOF.*—*In any civil action*
9 *under paragraph (1), the plaintiff shall have the bur-*
10 *den to establish a prima facie case that, due to acts*
11 *or omissions of any official of the Organization or*
12 *any member of an inspection team of the Technical*
13 *Secretariat taken under the color of the Convention,*
14 *proprietary information of the plaintiff has been di-*
15 *vulged or taken without authorization. If the United*
16 *States Court of Federal Claims finds that the plaintiff*
17 *has demonstrated such a prima facie case, the burden*
18 *shall shift to the United States to disprove the plain-*
19 *tiff's claim. In deciding whether the plaintiff has car-*
20 *ried its burden, the United States Court of Federal*
21 *Claims shall consider, among other things—*

22 (A) *the value of proprietary information;*

23 (B) *the availability of the proprietary in-*
24 *formation;*

1 (C) *the extent to which the proprietary in-*
2 *formation is based on patents, trade secrets, or*
3 *other protected intellectual property;*

4 (D) *the significance of proprietary informa-*
5 *tion; and*

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

8 (b) *TORT LIABILITY.*—*The district courts of the United*
9 *States shall have exclusive jurisdiction of civil actions for*
10 *money damages for any tort under the Constitution or any*
11 *Federal or State law arising from the acts or omissions of*
12 *any officer or employee of the United States or the Organi-*
13 *zation, including any member of an inspection team of the*
14 *Technical Secretariat, taken pursuant to or under color of*
15 *the Convention or this Act.*

16 (c) *WAIVER OF SOVEREIGN IMMUNITY OF THE UNITED*
17 *STATES.*—*In any action under subsection (a) or (b), the*
18 *United States may not raise sovereign immunity as a de-*
19 *fense.*

20 (d) *AUTHORITY FOR CAUSE OF ACTION.*—

21 (1) *UNITED STATES ACTIONS IN UNITED STATES*
22 *DISTRICT COURT.*—*Notwithstanding any other law,*
23 *the Attorney General of the United States is author-*
24 *ized to bring an action in the United States District*
25 *Court for the District of Columbia against any for-*

1 *eign nation for money damages resulting from that*
2 *nation's refusal to provide indemnification to the*
3 *United States for any liability imposed on the United*
4 *States by virtue of the actions of an inspector of the*
5 *Technical Secretariat who is a national of that for-*
6 *foreign nation acting at the direction or the behest of*
7 *that foreign nation.*

8 (2) *UNITED STATES ACTIONS IN COURTS OUT-*
9 *SIDE THE UNITED STATES.—The Attorney General is*
10 *authorized to seek any and all available redress in*
11 *any international tribunal for indemnification to the*
12 *United States for any liability imposed on the United*
13 *States by virtue of the actions of an inspector of the*
14 *Technical Secretariat, and to seek such redress in the*
15 *courts of the foreign nation from which the inspector*
16 *is a national.*

17 (3) *ACTIONS BROUGHT BY INDIVIDUALS AND*
18 *BUSINESSES.—Notwithstanding any other law, any*
19 *national of the United States, or any business entity*
20 *organized and operating under the laws of the United*
21 *States, may bring a civil action in a United States*
22 *District Court for money damages against any for-*
23 *foreign national or any business entity organized and*
24 *operating under the laws of a foreign nation for an*
25 *unauthorized or unlawful acquisition, receipt, trans-*

1 *mission, or use of property by or on behalf of such*
2 *foreign national or business entity as a result of any*
3 *tort under the Constitution or any Federal or State*
4 *law arising from acts or omissions by any officer or*
5 *employee of the United States or any member of an*
6 *inspection team of the Technical Secretariat taken*
7 *pursuant to or under the color of the Convention or*
8 *this Act.*

9 *(e) RECOUPMENT.—*

10 *(1) POLICY.—It is the policy of the United*
11 *States to recoup all funds withdrawn from the Treas-*
12 *ury of the United States in payment for any tort*
13 *under Federal or State law or taking under the Con-*
14 *stitution arising from the acts or omissions of any*
15 *foreign person, officer, or employee of the Organiza-*
16 *tion, including any member of an inspection team of*
17 *the Technical Secretariat, taken under color of the*
18 *Chemical Weapons Convention or this Act.*

19 *(2) SANCTIONS ON FOREIGN COMPANIES.—*

20 *(A) IMPOSITION OF SANCTIONS.—The sanc-*
21 *tions provided in subparagraph (B) shall be im-*
22 *posed for a period of not less than ten years*
23 *upon—*

24 *(i) any foreign person, officer, or em-*
25 *ployee of the Organization, including any*

1 member of an inspection team of the Tech-
2 nical Secretariat, for whose actions or omis-
3 sions the United States has been held liable
4 for a tort or taking pursuant to this Act;
5 and

6 (ii) any foreign person or business en-
7 tity organized and operating under the laws
8 of a foreign nation which knowingly as-
9 sisted, encouraged or induced, in any way,
10 a foreign person described in clause (i) to
11 publish, divulge, disclose, or make known in
12 any manner or to any extent not authorized
13 by the Convention any United States con-
14 fidential business information.

15 (B) SANCTIONS.—

16 (i) ARMS EXPORT TRANSACTIONS.—
17 The United States Government shall not sell
18 to a person described in subparagraph (A)
19 any item on the United States Munitions
20 List and shall terminate sales of any de-
21 fense articles, defense services, or design and
22 construction services to a person described
23 in paragraph (2) under the Arms Export
24 Control Act.

1 (ii) *SANCTIONS UNDER EXPORT ADMIN-*
2 *ISTRATION ACT OF 1979.—The authorities*
3 *under section 6 of the Export Administra-*
4 *tion Act of 1979 shall be used to prohibit*
5 *the export of any goods or technology on the*
6 *control list established pursuant to section*
7 *5(c)(1) of that Act to a person described in*
8 *subparagraph (A).*

9 (iii) *INTERNATIONAL FINANCIAL AS-*
10 *SISTANCE.—The United States shall oppose*
11 *any loan or financial or technical assist-*
12 *ance by international financial institutions*
13 *in accordance with section 701 of the Inter-*
14 *national Financial Institutions Act to a*
15 *person described in subparagraph (A).*

16 (iv) *EXPORT-IMPORT BANK TRANS-*
17 *ACTIONS.—The United States shall not give*
18 *approval to guarantee, insure, or extend*
19 *credit, or to participate in the extension of*
20 *credit to a person described in subpara-*
21 *graph (A) through the Export-Import Bank*
22 *of the United States.*

23 (v) *PRIVATE BANK TRANSACTIONS.—*
24 *Regulations shall be issued to prohibit any*
25 *United States bank from making any loan*

1 or providing any credit to a person de-
2 scribed in subparagraph (A).

3 (vi) *BLOCKING OF ASSETS.*—*The Presi-*
4 *dent shall take all steps necessary to block*
5 *any transactions in any property subject to*
6 *the jurisdiction of the United States in*
7 *which a person described in subparagraph*
8 *(A) has any interest whatsoever, for the*
9 *purpose of recouping funds in accordance*
10 *with the policy in paragraph (1).*

11 (vii) *DENIAL OF LANDING RIGHTS.*—
12 *Landing rights in the United States shall be*
13 *denied to any private aircraft or air carrier*
14 *owned by a person described in subpara-*
15 *graph (A) except as necessary to provide for*
16 *emergencies in which the safety of the air-*
17 *craft or its crew or passengers is threatened.*

18 (3) *SANCTIONS ON FOREIGN GOVERNMENTS.*—

19 (A) *IMPOSITION OF SANCTIONS.*—*Whenever*
20 *the President determines that persuasive infor-*
21 *mation is available indicating that a foreign*
22 *country has knowingly assisted, encouraged or*
23 *induced, in any way, a person described in*
24 *paragraph (2)(A) to publish, divulge, disclose, or*
25 *make known in any manner or to any extent not*

1 *authorized by the Convention any United States*
2 *confidential business information, the President*
3 *shall, within 30 days after the receipt of such in-*
4 *formation by the executive branch of Govern-*
5 *ment, notify the Congress in writing of such de-*
6 *termination and, subject to the requirements of*
7 *paragraphs (4) and (5), impose the sanctions*
8 *provided under subparagraph (B) for a period of*
9 *not less than five years.*

10 *(B) SANCTIONS.—*

11 *(i) ARMS EXPORT TRANSACTIONS.—*

12 *The United States Government shall not sell*
13 *a country described in subparagraph (A)*
14 *any item on the United States Munitions*
15 *List, shall terminate sales of any defense ar-*
16 *ticles, defense services, or design and con-*
17 *struction services to that country under the*
18 *Arms Export Control Act, and shall termi-*
19 *nate all foreign military financing for that*
20 *country under the Arms Export Control*
21 *Act.*

22 *(ii) DENIAL OF CERTAIN LICENSES.—*

23 *Licenses shall not be issued for the export to*
24 *the sanctioned country of any item on the*

1 *United States Munitions List or commercial*
2 *satellites.*

3 *(iii) DENIAL OF ASSISTANCE.—No ap-*
4 *propriated funds may be used for the pur-*
5 *pose of providing economic assistance, pro-*
6 *viding military assistance or grant military*
7 *education and training, or extending mili-*
8 *tary credits or making guarantees to a*
9 *country described in subparagraph (A).*

10 *(iv) SANCTIONS UNDER EXPORT AD-*
11 *MINISTRATION ACT OF 1979.—The authori-*
12 *ties of section 6 of the Export Administra-*
13 *tion Act of 1979 shall be used to prohibit*
14 *the export of any goods or technology on the*
15 *control list established pursuant to section*
16 *5(c)(1) of that Act to a country described in*
17 *subparagraph (A).*

18 *(v) INTERNATIONAL FINANCIAL ASSIST-*
19 *ANCE.—The United States shall oppose any*
20 *loan or financial or technical assistance by*
21 *international financial institutions in ac-*
22 *cordance with section 701 of the Inter-*
23 *national Financial Institutions Act to a*
24 *country described in subparagraph (A).*

1 (vi) *TERMINATION OF ASSISTANCE*
2 *UNDER FOREIGN ASSISTANCE ACT OF*
3 *1961.—The United States shall terminate all*
4 *assistance to a country described in sub-*
5 *paragraph (A) under the Foreign Assistance*
6 *Act of 1961, except for urgent humanitarian*
7 *assistance.*

8 (vii) *PRIVATE BANK TRANSACTIONS.—*
9 *The United States shall not give approval*
10 *to guarantee, insure, or extend credit, or*
11 *participate in the extension of credit*
12 *through the Export-Import Bank of the*
13 *United States to a country described in sub-*
14 *paragraph (A).*

15 (viii) *PRIVATE BANK TRANSACTIONS.—*
16 *Regulations shall be issued to prohibit any*
17 *United States bank from making any loan*
18 *or providing any credit to a country de-*
19 *scribed in subparagraph (A).*

20 (ix) *DENIAL OF LANDING RIGHTS.—*
21 *Landing rights in the United States shall be*
22 *denied to any air carrier owned by a coun-*
23 *try described in subparagraph (A), except*
24 *as necessary to provide for emergencies in*

1 *which the safety of the aircraft or its crew*
2 *or passengers is threatened.*

3 (4) *SUSPENSION OF SANCTIONS UPON*
4 *RECOUPMENT BY PAYMENT.—Sanctions imposed*
5 *under paragraph (2) or (3) may be suspended if the*
6 *sanctioned person, business entity, or country, within*
7 *the period specified in that paragraph, provides full*
8 *and complete compensation to the United States Gov-*
9 *ernment, in convertible foreign exchange or other mu-*
10 *tually acceptable compensation equivalent to the full*
11 *value thereof, in satisfaction of a tort or taking for*
12 *which the United States has been held liable pursuant*
13 *to this Act.*

14 (5) *WAIVER OF SANCTIONS ON FOREIGN COUN-*
15 *TRIES.—The President may waive some or all of the*
16 *sanctions provided under paragraph (3) in a particu-*
17 *lar case if he determines and certifies in writing to*
18 *the Speaker of the House of Representatives and the*
19 *Committee on Foreign Relations of the Senate that*
20 *such waiver is necessary to protect the national secu-*
21 *urity interests of the United States. The certification*
22 *shall set forth the reasons supporting the determina-*
23 *tion and shall take effect on the date on which the cer-*
24 *tification is received by the Congress.*

1 (6) *NOTIFICATION TO CONGRESS.*—Not later
2 than five days after sanctions become effective against
3 a foreign person pursuant to this Act, the President
4 shall transmit written notification of the imposition
5 of sanctions against that foreign person to the chair-
6 men and ranking members of the Committee on Inter-
7 national Relations of the House of Representatives
8 and the Committee on Foreign Relations of the Sen-
9 ate.

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

15 (1) is, or previously served as, an officer or em-
16 ployee of the Organization and who has willfully pub-
17 lished, divulged, disclosed, or made known in any
18 manner or to any extent not authorized by the Con-
19 vention any United States confidential business infor-
20 mation coming to him in the course of his employ-
21 ment or official duties, or by reason of any examina-
22 tion or investigation of any return, report, or record
23 made to or filed with the Organization, or any officer
24 or employee thereof, such practice or disclosure having
25 resulted in financial losses or damages to a United

1 States person and for which actions or omissions the
 2 United States has been found liable of a tort or taking
 3 pursuant to this Act;

4 (2) traffics in United States confidential busi-
 5 ness information, a proven claim to which is owned
 6 by a United States national;

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

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

15 (g) UNITED STATES CONFIDENTIAL BUSINESS INFOR-
 16 MATION DEFINED.—In this section, the term “United States
 17 confidential business information” means any trade secrets
 18 or commercial or financial information that is privileged
 19 and confidential—

20 (1) including—

21 (A) data described in section 304(e)(2) of
 22 this Act,

23 (B) any chemical structure,

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

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

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

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

8 and that is obtained—

9 (i) from a United States person; or

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

13 **TITLE II—PENALTIES FOR UN-**
14 **LAWFUL ACTIVITIES SUBJECT**
15 **TO THE JURISDICTION OF**
16 **THE UNITED STATES**

17 **Subtitle A—Criminal and Civil**
18 **Penalties**

19 **SEC. 201. CRIMINAL AND CIVIL PROVISIONS.**

20 (a) *IN GENERAL.*—Part I of title 18, United States
21 Code, is amended by inserting after chapter 11A the follow-
22 ing new chapter:

23 **“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.

1 **"§229. Prohibited activities**

2 *"(a) UNLAWFUL CONDUCT.—Except as provided in*
3 *subsection (b), it shall be unlawful for any person know-*
4 *ingly—*

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*

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

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

13 *"(1) IN GENERAL.—Subsection (a) does not*
14 *apply to the retention, ownership, possession, transfer,*
15 *or receipt of a chemical weapon by a department,*
16 *agency, or other entity of the United States, or by a*
17 *person described in paragraph (2), pending destruc-*
18 *tion of the weapon.*

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

21 *"(A) any person, including a member of the*
22 *Armed Forces of the United States, who is au-*
23 *thorized by law or by an appropriate officer of*

1 the United States to retain, own, possess, trans-
2 fer, or receive the chemical weapon; or

3 “(B) in an emergency situation, any other-
4 wise nonculpable person if the person is attempt-
5 ing to destroy or seize the weapon.

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

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

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

12 “(3) is committed against a national of the
13 United States while the national is outside the United
14 States; or

15 “(4) is committed against any property that is
16 owned, leased, or used by the United States or by any
17 department or agency of the United States, whether
18 the property is within or outside the United States.

19 **“§229A. Penalties**

20 “(a) CRIMINAL PENALTIES.—

21 “(1) IN GENERAL.—Any person who violates sec-
22 tion 229 of this title shall be fined under this title,
23 or imprisoned for any term of years, or both.

24 “(2) DEATH PENALTY.—Any person who violates
25 section 229 of this title and by whose action the death

1 of another person is the result shall be punished by
2 death or imprisoned for life.

3 “(b) CIVIL PENALTIES.—

4 “(1) IN GENERAL.—The Attorney General may
5 bring a civil action in the appropriate United States
6 district court against any person who violates section
7 229 of this title and, upon proof of such violation by
8 a preponderance of the evidence, such person shall be
9 subject to pay a civil penalty in an amount not to
10 exceed \$100,000 for each such violation.

11 “(2) RELATION TO OTHER PROCEEDINGS.—The
12 imposition of a civil penalty under this subsection
13 does not preclude any other criminal or civil statu-
14 tory, common law, or administrative remedy, which
15 is available by law to the United States or any other
16 person.

17 “(c) REIMBURSEMENT OF COSTS.—The court shall
18 order any person convicted of an offense under subsection
19 (a) to reimburse the United States for any expenses in-
20 curred by the United States incident to the seizure, storage,
21 handling, transportation, and destruction or other disposi-
22 tion of any property that was seized in connection with
23 an investigation of the commission of the offense by that
24 person. A person ordered to reimburse the United States
25 for expenses under this subsection shall be jointly and sever-

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1 *ally liable for such expenses with each other person, if any,*
2 *who is ordered under this subsection to reimburse the Unit-*
3 *ed States for the same expenses.*

4 **“§229B. Criminal forfeitures; destruction of weapons**

5 **“(a) PROPERTY SUBJECT TO CRIMINAL FORFEIT-**
6 **URE.—***Any person convicted under section 229A(a) shall*
7 *forfeit to the United States irrespective of any provision of*
8 *State law—*

9 *“(1) any property, real or personal, owned, pos-*
10 *sessed, or used by a person involved in the offense;*

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

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

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

24 **“(b) PROCEDURES.—**

1 **SEC. 602. PROHIBITION.**

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

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

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

10 (b) *CONSTRUCTION.*—Nothing in subsection (a) may
11 be construed to prohibit actions carried out for purposes
12 not prohibited by this Act (as defined in section 3(8)).

13 (c) *BIOLOGICAL AGENT DEFINED.*—In this section, the
14 term “biological agent” means any micro-organism (includ-
15 ing bacteria, viruses, fungi, rickettsiae or protozoa), patho-
16 gen, or infectious substance, or any naturally occurring,
17 bio-engineered or synthesized component of any such micro-
18 organism, pathogen, or infectious substance, whatever its
19 origin or method of production, capable of causing—

20 (1) death, disease, or other biological malfunc-
21 tion in a human, an animal, a plant, or another liv-
22 ing organism;

23 (2) deterioration of food, water, equipment, sup-
24 plies, or materials of any kind; or

25 (3) deleterious alteration of the environment.

Pages #114, 115
Missing deal
With “specific
enforcement” and
“Expedited” judicial
Review”