

SEC. 5. The Departments of State, Defense, Commerce, and Energy, and other agencies as appropriate, are authorized to carry out, consistent with the Act and in accordance with subsequent directives, appropriate functions that are not otherwise assigned in the Act and are necessary to implement the provisions of the Convention and the Act.

SEC. 6. The Departments of State, Defense, Commerce, and Energy, and other agencies, as appropriate, are authorized to provide assistance to facilities not owned or operated by the U.S. Government, or contracted for use by or for the U.S. Government, in meeting reporting requirements and in preparing the facilities for possible inspection pursuant to the Convention.

SEC. 7. The USNA, in coordination with the inter-agency group designated in section 2 of this order, is authorized to determine whether disclosure of confidential business information pursuant to section 404(c) of the Act [22 U.S.C. 6744(c)] is in the national interest. Disclosure will not be permitted if contrary to national security or law enforcement needs.

SEC. 8. In order to take additional steps with respect to the proliferation of weapons of mass destruction and means of delivering them and the national emergency described and declared in Executive Order 12938 of November 14, 1994 [listed in a table under section 1701 of Title 50, War and National Defense], as amended by Executive Order 13094 of July 30, 1998, section 3 of Executive Order 12938, as amended, is amended to add a new subsection (e) to read as follows:

“(e) the Secretary of Commerce shall impose and enforce such restrictions on the importation of chemicals into the United States as may be necessary to carry out the requirements of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction.”

SEC. 9. Any investigation emanating from a possible violation of this order, or of any license, order, or regulation issued pursuant to this order, involving or revealing a possible violation of 18 U.S.C. section 229 shall be referred to the Federal Bureau of Investigation (FBI), which shall coordinate with the referring agency and other appropriate agencies. The FBI shall timely notify the referring agency and other appropriate agencies of any action it takes on such referrals.

SEC. 10. Nothing in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

SEC. 11. (a) This order shall take effect at 12:01 a.m. eastern daylight time, June 26, 1999.

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

WILLIAM J. CLINTON.

§ 6712. No abridgement of constitutional rights

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

(Pub. L. 105-277, div. I, title I, §102, Oct. 21, 1998, 112 Stat. 2681-861.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act” and was translated as reading “this division”, meaning div. I of Pub. L. 105-277, Oct. 21, 1998, 112 Stat. 2681-856, known as the Chemical Weapons Convention Implementation Act of 1998, to reflect the probable intent of Congress. For complete classification of division I to the Code, see Short Title note set out under section 6701 of this title and Tables.

§ 6713. Civil liability of United States

(a) Claims for taking of property

(1) Jurisdiction of courts of the United States

(A) United States Court of Federal Claims

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

(B) District courts

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

(2) Notification

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

(3) Initial steps by United States Government to seek remedies

During the period between a notification pursuant to paragraph (2) and the filing of a claim covered by the notification in the United States Court of Federal Claims, the United States National Authority shall pursue all diplomatic and other remedies that the United States National Authority considers necessary and appropriate to seek redress for the claim including, but not limited to, the remedies provided for in the Convention and under this chapter.

(4) Burden of proof

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