

litical commitment to stem the proliferation of chemical weapons is similar to that of the Australia Group; and

(4) to adopt the imposition of stricter controls on the export of chemical agents, precursors, and equipment and to adopt tougher multilateral sanctions against firms and individuals who violate these controls or against countries that use chemical weapons.

(Pub. L. 102-182, title III, §303, Dec. 4, 1991, 105 Stat. 1245.)

### § 5603. United States export controls

The President shall—

(1) use the authorities of the Arms Export Control Act [22 U.S.C. 2751 et seq.] to control the export of those defense articles and defense services, and

(2) use the authorities of the Export Administration Act of 1979 [50 U.S.C. 4601 et seq.] to control the export of those goods and technology,

that the President determines would assist the government of any foreign country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons.

(Pub. L. 102-182, title III, §304(a), Dec. 4, 1991, 105 Stat. 1246.)

#### REFERENCES IN TEXT

The Arms Export Control Act, referred to in par. (1), is Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of this title and Tables.

The Export Administration Act of 1979, referred to in par. (2), is Pub. L. 96-72, Sept. 29, 1979, 93 Stat. 503, which is classified principally to chapter 56 (§4601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

### § 5604. Determinations regarding use of chemical or biological weapons

#### (a) Determination by President

##### (1) When determination required; nature of determination

Whenever persuasive information becomes available to the executive branch indicating the substantial possibility that, on or after October 28, 1991, the government of a foreign country has made substantial preparation to use or has used chemical or biological weapons, the President shall, within 60 days after the receipt of such information by the executive branch, determine whether that government, on or after October 28, 1991, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals. Section 5605 of this title applies if the President determines that that government has so used chemical or biological weapons.

##### (2) Matters to be considered

In making the determination under paragraph (1), the President shall consider the following:

(A) All physical and circumstantial evidence available bearing on the possible use of such weapons.

(B) All information provided by alleged victims, witnesses, and independent observers.

(C) The extent of the availability of the weapons in question to the purported user.

(D) All official and unofficial statements bearing on the possible use of such weapons.

(E) Whether, and to what extent, the government in question is willing to honor a request from the Secretary General of the United Nations to grant timely access to a United Nations fact-finding team to investigate the possibility of chemical or biological weapons use or to grant such access to other legitimate outside parties.

#### (3) Determination to be reported to Congress

Upon making a determination under paragraph (1), the President shall promptly report that determination to the Congress. If the determination is that a foreign government had used chemical or biological weapons as described in that paragraph, the report shall specify the sanctions to be imposed pursuant to section 5605 of this title.

#### (b) Congressional requests; report

##### (1) Request

The Chairman of the Committee on Foreign Relations of the Senate (upon consultation with the ranking minority member of such committee) or the Chairman of the Committee on Foreign Affairs of the House of Representatives (upon consultation with the ranking minority member of such committee) may at any time request the President to consider whether a particular foreign government, on or after December 4, 1991, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals.

##### (2) Report to Congress

Not later than 60 days after receiving such a request, the President shall provide to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs of the House of Representatives a written report on the information held by the executive branch which is pertinent to the issue of whether the specified government, on or after December 4, 1991, has used chemical or biological weapons in violation of international law or has used lethal chemical or biological weapons against its own nationals. This report shall contain an analysis of each of the items enumerated in subsection (a)(2).

(Pub. L. 102-182, title III, §§306, 309(b)(3), Dec. 4, 1991, 105 Stat. 1252, 1259.)

#### AMENDMENTS

1991—Subsec. (a)(1). Pub. L. 101-182, §309(b)(3), substituted “October 28, 1991” for reference to the “date of the enactment of this title”, meaning the date of the enactment of title V of Pub. L. 101-182 which was enacted Dec. 4, 1991. “October 28, 1991”, the second time appearing, was substituted for “such date of enactment” for purposes of codification.

#### DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of State, with certain exceptions, by sec-

tion 1(b) of Ex. Ord. No. 12851, June 11, 1993, 58 F.R. 33181, set out as a note under section 2797 of this title.

**§ 5605. Sanctions against use of chemical or biological weapons**

**(a) Initial sanctions**

If, at any time, the President makes a determination pursuant to section 5604(a)(1) of this title with respect to the government of a foreign country, the President shall forthwith impose the following sanctions:

**(1) Foreign assistance**

The United States Government shall terminate assistance to that country under the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.], except for urgent humanitarian assistance and food or other agricultural commodities or products.

**(2) Arms sales**

The United States Government shall terminate—

(A) sales to that country under the Arms Export Control Act [22 U.S.C. 2751 et seq.] of any defense articles, defense services, or design and construction services, and

(B) licenses for the export to that country of any item on the United States Munitions List.

**(3) Arms sales financing**

The United States Government shall terminate all foreign military financing for that country under the Arms Export Control Act.

**(4) Denial of United States Government credit or other financial assistance**

The United States Government shall deny to that country any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, including the Export-Import Bank of the United States.

**(5) Exports of national security-sensitive goods and technology**

The authorities of section 4605 of title 50 shall be used to prohibit the export to that country of any goods or technology on that part of the control list established under section 4604(c)(1) of title 50.

**(b) Additional sanctions if certain conditions not met**

**(1) Presidential determination**

Unless, within 3 months after making a determination pursuant to section 5604(a)(1) of this title with respect to a foreign government, the President determines and certifies in writing to the Congress that—

(A) that government is no longer using chemical or biological weapons in violation of international law or using lethal chemical or biological weapons against its own nationals,

(B) that government has provided reliable assurances that it will not in the future engage in any such activities, and

(C) that government is willing to allow on-site inspections by United Nations observers or other internationally recognized, impar-

tial observers, or other reliable means exist, to ensure that that government is not using chemical or biological weapons in violation of international law and is not using lethal chemical or biological weapons against its own nationals,

then the President, after consultation with the Congress, shall impose on that country the sanctions set forth in at least 3 of subparagraphs (A) through (F) of paragraph (2).

**(2) Sanctions**

The sanctions referred to in paragraph (1) are the following:

**(A) Multilateral development bank assistance**

The United States Government shall oppose, in accordance with section 262d of this title, the extension of any loan or financial or technical assistance to that country by international financial institutions.

**(B) Bank loans**

The United States Government shall prohibit any United States bank from making any loan or providing any credit to the government of that country, except for loans or credits for the purpose of purchasing food or other agricultural commodities or products.

**(C) Further export restrictions**

The authorities of section 4605 of title 50 shall be used to prohibit exports to that country of all other goods and technology (excluding food and other agricultural commodities and products).

**(D) Import restrictions**

Restrictions shall be imposed on the importation into the United States of articles (which may include petroleum or any petroleum product) that are the growth, product, or manufacture of that country.

**(E) Diplomatic relations**

The President shall use his constitutional authorities to downgrade or suspend diplomatic relations between the United States and the government of that country.

**(F) Presidential action regarding aviation**

(i)(I) The President is authorized to notify the government of a country with respect to which the President has made a determination pursuant to section 5604(a)(1) of this title of his intention to suspend the authority of foreign air carriers owned or controlled by the government of that country to engage in foreign air transportation to or from the United States.

(II) Within 10 days after the date of notification of a government under subclause (I), the Secretary of Transportation shall take all steps necessary to suspend at the earliest possible date the authority of any foreign air carrier owned or controlled, directly or indirectly, by that government to engage in foreign air transportation to or from the United States, notwithstanding any agreement relating to air services.

(ii)(I) The President may direct the Secretary of State to terminate any air service agreement between the United States and a