

Executive Order 12735 of November 16, 1990

## Chemical and Biological Weapons Proliferation

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3 of the United States Code,

I, GEORGE BUSH, President of the United States of America, find that proliferation of chemical and biological weapons constitutes an unusual and extraordinary threat to the national security and foreign policy of the United States and hereby declare a national emergency to deal with that threat.

Accordingly, I hereby order:

**Section 1. *International Negotiations.*** It is the policy of the United States to lead and seek multilaterally coordinated efforts with other countries to control the proliferation of chemical and biological weapons. The Secretary of State shall accordingly ensure that the early achievement of a comprehensive global convention to prohibit the production and stockpiling of chemical weapons, with adequate provisions for verification, shall be a top priority of the foreign policy of the United States, and the Secretary of State shall cooperate in and lead multilateral efforts to stop the proliferation of chemical weapons.

**Sec. 2. *Imposition of Controls.*** As provided herein, the Secretary of State and the Secretary of Commerce shall use their authorities, including the Arms Export Control Act and Executive Order No. 12730, respectively, to control any exports that either Secretary determines would assist a country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons. The Secretary of State shall pursue early negotiations with foreign governments to adopt effective measures comparable to those imposed under this order.

**Sec. 3. *Department of Commerce Controls.*** (a) The Secretary of Commerce shall prohibit the export of any goods, technology, or services subject to his export jurisdiction that the Secretary of Commerce and the Secretary of State determine, in accordance with regulations issued pursuant to this order, would assist a foreign country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons. The Secretary of Commerce and the Secretary of State shall develop an initial list of such goods, technology, and services within 90 days of this order. The Secretary of State shall pursue early negotiations with foreign governments to adopt effective measures comparable to those imposed under this section.

(b) Subsection (a) will not apply to exports if their destination is a country with whose government the United States has entered into a bilateral or multilateral arrangement for the control of chemical or biological weapons-related goods (including delivery systems) and technology, or maintains domestic export controls comparable to controls that are imposed by the United States with respect to such goods and technology or that are otherwise deemed adequate by the Secretary of State.

(c) The Secretary of Commerce shall require validated licenses to implement this order and shall coordinate any license applications with the Secretary of State and the Secretary of Defense.

**Sec. 4. Sanctions Against Foreign Persons.** (a) Sanctions shall be imposed on foreign persons with respect to chemical and biological weapons proliferation, as specified in subsections (b)(1) through (b)(5).

(b)(1) Sanctions shall be imposed on a foreign person if the Secretary of State determines that the foreign person on or after the effective date of this order knowingly and materially contributed to the efforts of a foreign country referred to in subsection (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

(2) The countries referred to in subsection (1) are those that the Secretary of State determines have either used chemical or biological weapons in violation of international law or have made substantial preparations to do so on or after the effective date of this order.

(3) No department or agency of the United States Government may procure, or enter into any contract for the procurement of, any goods or services from any foreign person referred to in subsection (1). The Secretary of the Treasury shall prohibit the importation into the United States of products produced by that foreign person.

(4) Sanctions imposed pursuant to this section may be terminated or not imposed against foreign persons if the Secretary of State determines that there is reliable evidence that the foreign person concerned has ceased all activities referred to in subsection (1).

(5) The Secretary of State and the Secretary of the Treasury may provide appropriate exemptions for procurement contracts necessary to meet U.S. operational military requirements or requirements under defense production agreements, sole source suppliers, spare parts, components, routine servicing and maintenance of products, and medical and humanitarian items. They may provide exemptions for contracts in existence on the date of this order under appropriate circumstances.

**Sec. 5. Sanctions Against Foreign Countries.** (a) Sanctions shall be imposed on foreign countries with respect to chemical and biological weapons proliferation, as specified in subsections (b) and (c).

(b) The Secretary of State shall determine whether any foreign country has, on or after the effective date of this order, (1) used chemical or biological weapons in violation of international law; or (2) made substantial preparations to use chemical or biological weapons in violation of international law; or (3) developed, produced, or stockpiled chemical or biological weapons in violation of international law.

(c) The following sanctions shall be imposed on any foreign country identified in subsection (b)(1) unless the Secretary of State determines that any individual sanction should not be applied due to significant foreign policy or national security reasons. The sanctions specified in this section may be made applicable to the countries identified in subsections (b)(2) or (b)(3) when the Secretary of State determines that such action will further the objectives of this order pertaining to proliferation. The sanctions specified in subsection (c)(2) below shall be imposed with the concurrence of the Secretary of the Treasury.

(1) *Foreign Assistance.* No assistance shall be provided to that country under the Foreign Assistance Act of 1961 or the Arms Export Control Act other than assistance that is intended to benefit the people of that country

directly and that is not channeled through governmental agencies or entities of that country.

(2) *Multilateral Development Bank Assistance.* The United States shall oppose any loan or financial or technical assistance to that country by international financial institutions in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d).

(3) *Denial of Credit or Other Financial Assistance.* The United States shall deny to that country any credit or financial assistance by any department, agency, or instrumentality of the United States Government.

(4) *Prohibition on Arms Sales.* The United States Government shall not, under the Arms Export Control Act, sell to that country any defense articles or defense services or issue any license for the export of items on the United States Munitions List.

(5) *Exports of National Security-Sensitive Goods and Technology.* No exports shall be permitted of any goods or technologies controlled for national security reasons under Export Administration Regulations.

(6) *Further Export Restrictions.* The Secretary of Commerce shall prohibit or otherwise substantially restrict exports to that country of goods, technology, and services (excluding agricultural commodities and products otherwise subject to control).

(7) *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.

(8) *Landing Rights.* At the earliest practicable date, the Secretary of State shall terminate, in a manner consistent with international law, the authority of any air carrier that is controlled in fact by the government of that country to engage in air transportation (as defined in section 101(10) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(10))).

**Sec. 6. Duration.** Any sanctions imposed pursuant to sections 4 or 5 shall remain in force until the Secretary of State determines that lifting any sanction is in the foreign policy or national security interests of the United States or, as to sanctions under section 4, until the Secretary has made the determination under section 4(b)(4).

**Sec. 7. Implementation.** The Secretary of State, the Secretary of the Treasury, and the Secretary of Commerce are hereby authorized and directed to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of this order. These actions, and in particular those in sections 4 and 5, shall be made in consultation with the Secretary of Defense and, as appropriate, other agency heads. The Secretary concerned may redelegate any of these functions to other officers in agencies of the Federal Government. All heads of departments and agencies of the United States Government are directed to take all appropriate measures within their authority to carry out the provisions of this order, including the suspension or termination of licenses or other authorizations.

**Sec. 8. Judicial Review.** This order is not intended to create, nor does it create, any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, officers, or any other person.

**Sec. 9. Effective Date.** This order is effective immediately.

This order shall be transmitted to the Congress and published in the *Federal Register*.

GEORGE BUSH

THE WHITE HOUSE,

November 16, 1990.

**Editorial note:** For the President's letter to the Speaker of the House and the President of the Senate on chemical and biological weapons, see the *Weekly Compilation of Presidential Documents* (vol. 26, p. 1837). For additional remarks on this Executive order, see p. 1839. For a statement by Press Secretary Fitzwater, dated Dec. 13, 1990, on the President's "Enhanced Proliferation Control Initiative" to combat the spread of chemical and biological weapons, see the *Weekly Compilation of Presidential Documents* (vol. 26, p. 2033).

### Executive Order 12736 of December 12, 1990

## Adjustments of Certain Rates of Pay and Allowances

By the authority vested in me as President by the Constitution and laws of the United States of America, including sections 703 and 704 of Public Law 101-194; section 302 of the Federal Employees Pay Comparability Act of 1990, as incorporated in section 529 of Public Law 101-509; section 618 of Public Law 101-509; section 601 of Public Law 101-510; section 321 of Public Law 101-520; and section 5382 of title 5, United States Code, it is hereby ordered as follows:

**Section 1. Statutory pay systems.** The rates of basic pay or salaries of the following statutory pay systems are set forth on the schedules attached hereto and made a part hereof:

- (a) The General Schedule (5 U.S.C. 5332(a)) at Schedule 1;
- (b) The Foreign Service Schedule (22 U.S.C. 3963) at Schedule 2; and
- (c) The schedules for the Veterans Health Services and Research Administration of the Department of Veterans Affairs (38 U.S.C. 4107) at Schedule 3.

**Sec. 2. Senior Executive Service.** Pursuant to section 5382 of title 5, United States Code, the rates of basic pay for members of the Senior Executive Service are set forth on Schedule 4 attached hereto and made a part hereof.

**Sec. 3. Executive salaries.** The rates of pay or salaries for the following offices and positions are set forth on the schedules attached hereto and made a part hereof:

- (a) The Executive Schedule (5 U.S.C. 5312-5316) at Schedule 5;
- (b) The Vice President (3 U.S.C. 104) and Congress (2 U.S.C. 31) at Schedule 6; and
- (c) Justices and judges (28 U.S.C. 5, 44(d), 135, and 252) at Schedule 7.

**Sec. 4. Uniformed services.** Pursuant to section 601 of Public Law 101-510, the rates of monthly basic pay (37 U.S.C. 203(a)), the rates of basic allowances for subsistence (37 U.S.C. 402), and the rates of basic allowances for