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WITHDRAWAL SHEET

Ronald Reagan Library

Collection: ROSTOW, NICHOLAS: Files
 OA/Box: Box 92054 2
 File Folder: Chemical Weapons

Archivist: cas
 FOIA ID: F98-057, Cooper
 Date: 11/15/1999

DOCUMENT NO. & TYPE	SUBJECT/TITLE	DATE	RESTRICTION
1. memo	Frank Carlucci to the National Security Adviser re chemical weapons arms control policy 2 p.	4/11/88	P1, F1, P5
2. memo	Fritz Ermarth to Peter Rodman et al 1 p. R 1/13/12 F98-057/1 #95	2/23/88	P1, F1
3. memo	for Ermarth 2 p.	2/23/88	P1, F1, P5

RESTRICTIONS

P-1 National security classified information [(a)(1) of the PRA].
 P-2 Relating to appointment to Federal office [(a)(2) of the PRA].

P-3 Release would violate a Federal statute [(a)(3) of the PRA].
 P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA].
 P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA].
 P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA].

C. Closed in accordance with restrictions contained in donor's deed of gift.

F-1 National security classified information [(b)(1) of the FOIA].
 F-2 Release could disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA].
 F-3 Release would violate a Federal statute [(b)(3) of the FOIA].
 F-4 Release would disclose trade secrets or confidential commercial or financial information [(b)(4) of the FOIA].
 F-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA].
 F-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA].
 F-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA].
 F-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA].

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THIS FORM MARKS THE FILE LOCATION OF ITEM NUMBER 15 LISTED ON THE
WITHDRAWAL SHEET AT THE FRONT OF THIS FOLDER.

Chemical Weapons
3/9 cc: Levin

NATIONAL SECURITY COUNCIL

23-Feb-1988 16:56 EST

~~SECRET~~

MEMORANDUM FOR:

Peter Rodman
Rudolf V. Perina
Nelson C. Ledsky
Tyrus Cobb

(RODMAN)
(PERINA)
(LEDSKY)
(COBB)

FROM: Fritz W. Ermarth
(ERMARTH)

SUBJECT: fwd from Mahley

See attached from Mahley. Don reports, on the basis of USNATO 1075, that Shultz has sold the farm on CW, violating SACG guidance and saying that we need a treaty even with inadequate verification to stop proliferation.

DECLASSIFIED

NLRR F98-057/1 #95

BY KML NARA DATE 1/13/12

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THIS FORM MARKS THE FILE LOCATION OF ITEM NUMBER 3 LISTED ON THE
WITHDRAWAL SHEET AT THE FRONT OF THIS FOLDER.

THE WHITE HOUSE
WASHINGTON

President sgd per WH

Executive Clerk

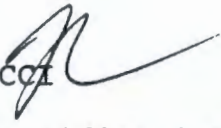
10/16/87
7255

October 13, 1987

Chemical Weapons

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK C. CARLUCCI 
SUBJECT: Presidential Certification of Binary Chemical Weapons

Issue

Whether to certify to Congress that statutory requirements for the production and final assembly of the 155mm Binary Chemical Projectile have been satisfied, thereby allowing this chemical weapons (CW) modernization program to begin.

Fact

The Department of Defense has met all statutory conditions for commencing this CW modernization program. The Secretary of Defense requests that presidential certification to this effect be provided to Congress so that, as provided by law, the Department of Defense may initiate final assembly of these new binary munitions 60 days after receipt by Congress of such certification.

Discussion

This CW modernization program will contribute substantially to your long-standing objective of acquiring a credible CW deterrent capability in view of the significant Soviet CW threat the United States confronts.

In accordance with NSDD-266, the Office of Legal Adviser to the NSC has coordinated the attached certification with A. B. Culvahouse in advance of its submission to you.

Recommendation

OK

No

That you sign the letters to the President of the Senate and to the Speaker of the House at Tabs A and B.

Attachments

Tab A Letter to President of the Senate
Tab B Letter to Speaker of the House

cc Vice President
Chief of Staff (2)

Prepared by:
Bill Heiser

THE WHITE HOUSE

WASHINGTON

Dear Mr. President:

Pursuant to Section 1233 of the Department of Defense Authorization Act, 1984, Public Law 98-94, I hereby certify with respect to the binary chemical munitions program that, for each 155 millimeter binary artillery shell or aircraft-delivered binary aerial bomb produced a serviceable unitary artillery shell from the existing arsenal shall be rendered permanently useless for military purposes.

Pursuant to Section 1411 of the Department of Defense Authorization Act, 1986, Public Law 99-145, as amended, I hereby certify with respect to the 155mm Binary Chemical Artillery Projectile that:

(1) final assembly of such complete munitions is necessitated by national security interests of the United States and the interests of other NATO member nations;

(2) performance specifications and handling and storage safety specifications established by the Department of Defense with respect to such munitions will be met or exceeded;

(3) applicable Federal safety requirements will be met or exceeded in the handling, storage and other use of such munitions; and

(4) the plan of the Secretary of Defense for destruction of existing United States chemical warfare stocks developed pursuant to section 1412 of the Department of Defense Authorization Act, 1986, Public Law 99-145, is ready to be implemented.

I note with regard to the fourth numbered paragraph above that the Plan, submitted to Congress on March 15, 1986, recognized and included the ongoing actions to comply with the National Environmental Policy Act as an essential element of the decision making process. Therefore, the initial steps for implementation of the plan for destruction of the existing United States chemical warfare stocks have already been taken with the filing of the draft programmatic environmental impact statement in July, 1986.

- 2 -

I am pleased to make this certification on a program so vital to our national security. We continue to seek a global, effectively verifiable ban on chemical weapons. Until we achieve that goal, however, it is essential that we maintain a safe, modern chemical weapon stockpile to deter use of chemicals by our potential adversaries. I will be counting on your continued support for this program.

The Honorable George Bush
President of the Senate
Washington, D. C. 20510

THE WHITE HOUSE

WASHINGTON

Dear Mr. Speaker:

Pursuant to Section 1233 of the Department of Defense Authorization Act, 1984, Public Law 98-94, I hereby certify with respect to the binary chemical munitions program that, for each 155 millimeter binary artillery shell or aircraft-delivered binary aerial bomb produced a serviceable unitary artillery shell from the existing arsenal shall be rendered permanently useless for military purposes.

Pursuant to Section 1411 of the Department of Defense Authorization Act, 1986, Public Law 99-145, as amended, I hereby certify with respect to the 155mm Binary Chemical Artillery Projectile that:

(1) final assembly of such complete munitions is necessitated by national security interests of the United States and the interests of other NATO member nations;

(2) performance specifications and handling and storage safety specifications established by the Department of Defense with respect to such munitions will be met or exceeded;

(3) applicable Federal safety requirements will be met or exceeded in the handling, storage and other use of such munitions; and

(4) the plan of the Secretary of Defense for destruction of existing United States chemical warfare stocks developed pursuant to section 1412 of the Department of Defense Authorization Act, 1986, Public Law 99-145, is ready to be implemented.

I note with regard to the fourth numbered paragraph above that the Plan, submitted to Congress on March 15, 1986, recognized and included the ongoing actions to comply with the National Environmental Policy Act as an essential element of the decision making process. Therefore, the initial steps for implementation of the plan for destruction of the existing United States chemical warfare stocks have already been taken with the filing of the draft programmatic environmental impact statement in July, 1986.

- 2 -

I am pleased to make this certification on a program so vital to our national security. We continue to seek a global, effectively verifiable ban on chemical weapons. Until we achieve that goal, however, it is essential that we maintain a safe, modern chemical weapon stockpile to deter use of chemicals by our potential adversaries. I will be counting on your continued support for this program.

The Honorable Jim Wright
Speaker of the
House of Representatives
Washington, D. C. 20510

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20508

SIGNED 7255

ACTION

October 7, 1987

MEMORANDUM FOR FRANK C. CARLUCCI

FROM:

BH BILL HEISER/*Traveling* DON MAHLEY/*Bob* BOB LINHARD

SUBJECT:

Presidential Certification on Binary Chemical
Projectile Final Assembly

The purpose of this memorandum is to forward for the President's approval and signature a proposed certification concerning the final assembly of the 155mm Binary Chemical Projectile. The Department of Defense is prepared to initiate final assembly of the first binary munition on completion of the required 60-day period following receipt by the Congress of the President's certification that all requirements for production and final assembly of such munitions have been satisfied.

The Department of Defense has informed us that all requirements for Presidential certification have been satisfied. Secretary Weinberger's memorandum is attached at TAB II.

Detailed Congressional conditions for DOD obligation and expenditure of funds for the production of binary chemical weapons (CW) and final assembly of complete binary munitions are set forth in the DOD Authorization Acts of 1984 and 1986, respectively. The appropriate extracts from these documents and a fact sheet on DOD's Binary Chemical Projectile program are provided for your reference at TAB III.

As the Secretary of Defense has noted in his memorandum to you, presidential certification for the final assembly of the 155mm binary projectile and the resulting modernization of our CW deterrent capability, represents the culmination of six years of Congressional debate. Proceeding with CW modernization is necessary to provide a credible CW deterrent in light of the Soviet Union's continued expansion and modernization of its chemical weapons stockpile and the increasing number of countries possessing or seeking to acquire a CW capability.

The CW Interdepartmental Group is developing press guidance for use as necessary when the Presidential certification is forwarded to Congress. With regard to the timing for sending the certification to Congress, we should move ahead with dispatch. The sooner Congress receives the Presidential certification, the sooner the 60-day waiting period will expire and final assembly of the 155mm binary chemical projectile can begin.

B. clear *3+ clear* - 2 - *3+ clear*
Bill Cockell, Alison Fortier, Nicholas Rostow, Linton Brooks and
Steve Steiner concur.

RECOMMENDATION

That you sign the memorandum to the President at TAB I forwarding
a proposed certification letter to the Congress.

Approve *[Signature]*

Disapprove _____

Attachments

TAB I Memorandum to the President
Tab A Certification Letter to the House
Tab B Certification Letter to the Senate
TAB II SecDef Letter on Presidential Certification
TAB III 155mm Binary Chemical Projectile Fact Sheet and
Relevant Extracts from DOD Authorization Acts



THE SECRETARY OF DEFENSE

WASHINGTON, THE DISTRICT OF COLUMBIA

1 OCT 1987

*Frank*MEMORANDUM FOR ASSISTANT TO THE PRESIDENT FOR NATIONAL
SECURITY AFFAIRSSUBJECT: Presidential Certification on Final Assembly of the
155mm Binary Chemical Projectile

The proposed Presidential certification concerning final assembly of the 155mm Binary Chemical Projectile is attached. All requirements for production and final assembly of the first binary munition have been satisfied. We are prepared to initiate final assembly of the first such munition on completion of the required 60 day period following receipt by the Congress of the President's certification.

Of the various issues to be certified, only two are considered to be potentially controversial. The first concerns a certification required by PL 98-94 concerning the destruction of at least one unitary artillery projectile for each binary artillery projectile or aircraft delivered binary aerial bomb to be produced. The second concerns whether the plan for destruction of the unitary chemical stockpile is "ready to be implemented."

With regard to the first issue, there is some question as to whether there is a need to submit the certification required by PL 98-94 given the more recent requirement of PL 99-145. Given that Congress did not expressly rescind the requirement, and that we are in a position to make the certification, we believe the best course of action is to certify and thereby reduce the bases for later challenge.

With regard to the second issue, those actions necessary to comply with the National Environmental Policy Act (NEPA) are part of the plan which was submitted to the Congress in March 1986. The filing of the draft programmatic environmental impact statement in July, 1986 is the first of those NEPA compliance actions. Accordingly, we have concluded that the plan developed pursuant to section 1412 of PL 99-145 is not only ready for implementation but that implementation has begun.

This action culminates more than six years of intense legislative debate concerning the decision to modernize our chemical warfare deterrent. The final assembly of these munitions is important not only to the security of our military forces, but also as a further incentive for arms control in this

area and as a symbol of our resolve realistically to address the growing worldwide threat of chemical warfare. It is most important that we proceed as soon as possible.

A handwritten signature in black ink, appearing to be 'J. S.' or similar, written in a cursive style.

Attachment
Presidential Certification

DRAFT

To the Congress of the United States:

Pursuant to Section 1233 of the Department of Defense Authorization Act, 1984, Public Law 98-94, I hereby certify with respect to the binary chemical munitions program that, for each 155 millimeter binary artillery shell or aircraft delivered binary aerial bomb produced a serviceable unitary artillery shell from the existing arsenal shall be rendered permanently useless for military purposes.

Pursuant to Section 1411 of the Department of Defense Authorization Act, 1986, Public Law 99-145, as amended, I hereby certify with respect to the 155mm Binary Chemical Artillery Projectile that:

(1) final assembly of such complete munitions is necessitated by national security interests of the United States and the interests of other NATO member nations;

(2) performance specifications and handling and storage safety specifications established by the Department of Defense with respect to such munitions will be met or exceeded;

(3) applicable Federal safety requirements will be met or exceeded in the handling, storage and other use of such munitions; and

(4) the plan of the Secretary of Defense for destruction of existing United States chemical warfare stocks developed pursuant to section 1412 of the Department of Defense Authorization Act, 1986, Public Law 99-145, is ready to be implemented.

I note with regard to the fourth numbered paragraph that the Plan, submitted to the Congress on March 15, 1986, recognized and included the ongoing actions to comply with the National Environmental Policy Act as an essential element of the decision making process. Therefore, the initial steps for implementation of the plan for destruction of the existing United States chemical warfare stocks have already been taken with the filing of the draft programmatic environmental impact statement in July, 1986. I am pleased to make this certification on a program so vital to our national defense. We continue to seek a comprehensive and verifiable ban on all chemical weapons. Until we achieve that goal, we must maintain a safe and viable chemical weapon stockpile to deter use of chemicals by our potential adversaries. I appreciate your continued support for this program.

RONALD REAGAN

The White House, October __, 1987.

DRAFT

155mm Binary Chemical Projectile

o Production of the 155mm Binary Chemical Projectile was authorized by the Congress in the Defense Authorization Act, 1986 (PL 99-145) as amended by the Defense Appropriations Act, 1986 (PL 99-190).

- Provisions restricting use of funds for procurement of components of the 155mm binary projectile were satisfied on July 29, 1986 with submission of the Presidential certification with regard to the NATO Force Goal and consultations on the contingency deployment plan.

- Additional restrictions related to final assembly of complete binary munitions require Presidential certification not earlier than October 1, 1987. Final assembly of complete munitions may begin 60 days after the Congress receives the certification.

o Production of components of the projectile is currently underway at the Louisiana Army Ammunition Plant (LAAP) in Shreveport, Louisiana.

- Current production includes the metal shell body and fuze assembly, over 700 of which have now been produced.

- The alcohol canister (one of the two binary components) is to be supplied by a contractor beginning March 1988. It will be loaded into the projectile at LAAP. The completed projectile body containing the alcohol canister will be placed into storage at the Tooele Army Depot in Utah.

o Filling and closure of the DF canister which contains the organophosphorous bearing binary component constitutes final assembly of the binary projectile. The DF canister will be produced at Pine Bluff Arsenal, Arkansas.

- Fifty-six canisters will be filled over a period of a few days during the low rate final assembly phase of the program which can begin 60 days after receipt by the Congress of the presidential certification on final assembly (not earlier than December 2, 1987). The DF canisters will be separately packaged and placed into storage at Pine Bluff.

- Canisters to be filled with DF during low rate final assembly will be fabricated at Aberdeen Proving Ground, Maryland. Subsequently, DF canisters will be fabricated by a contractor with initial deliveries beginning in March 1988.

- Sufficient DF is currently on hand at Pine Bluff Arsenal to fill the initial low rate final assembly quantity of DF canisters and to support the subsequent low rate initial production of the projectile. Full production quantities of DF

will be produced at Pine Bluff from the precursor DC which will be produced under a commercial contract scheduled to be awarded in October 1987.

- o Low rate initial production of the 155mm Binary Chemical Projectile will begin at Pine Bluff in April 1988 when sufficient quantities of DF canister metal parts have been received from the contractor.

- o Full production of the projectile will begin in January, 1989.

Public Law 99-145
99th Congress

An Act

To authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for the Department of Defense for fiscal year 1986, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize appropriations for fiscal year 1986 for national security programs of the Department of Energy, and for other purposes.

Nov. 8, 1985
[S. 1160]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Department of
Defense
Authorization
Act, 1986.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the "Department of Defense Authorization Act, 1986".

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

Sec. 1. Short title; table of contents.

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

- Sec. 101. Army.
- Sec. 102. Navy and Marine Corps.
- Sec. 103. Air Force.
- Sec. 104. Reserve components.
- Sec. 105. Defense Agencies.
- Sec. 106. NATO cooperative programs.
- Sec. 107. Reductions in authorizations due to savings from lower inflation and prior-year cost savings.
- Sec. 108. Provisions relating to transfers of prior-year funds.
- Sec. 109. Report on reductions and transfers.
- Sec. 110. Improvement in conventional readiness capability.

PART B—ARMY PROGRAM LIMITATIONS

- Sec. 121. Sergeant York Division Air Defense (DIVAD) gun.
- Sec. 122. Bradley Fighting Vehicle.
- Sec. 123. Conditions on procurement of certain combat vehicles.
- Sec. 124. Sale of L119 howitzers overseas.
- Sec. 125. Restrictions on purchase of 5-ton trucks.
- Sec. 126. Other Army programs.

PART C—NAVY PROGRAM LIMITATIONS

- Sec. 131. A6 aircraft refueling program.
- Sec. 132. Limitations on Navy aircraft procurement.

PART D—AIR FORCE PROGRAM LIMITATIONS

- Sec. 141. MX missile program.
- Sec. 142. Competition for Air Force fighter aircraft procurement.
- Sec. 143. Advanced technology bomber.
- Sec. 144. Special operations forces HH-53 helicopters.

PART E—OTHER LIMITATIONS

- Sec. 151. C-12 aircraft.
- Sec. 152. Adequate airlift for special operations forces.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS OF APPROPRIATIONS AND PROGRAM LIMITATIONS

- Sec. 201. Authorization of appropriations.

FOR THE DEPARTMENT OF DEFENSE

that the programs and activities could be more effectively and efficiently managed and funds for the Department were appropriated annually.

BUDGET PROPOSAL.—The President submitted to the Congress pursuant to the Budget Code, for fiscal year 1986, an estimate of the Department of Defense and related activities. Thereafter, the President submitted to the Congress the budget for the Department of Defense for each year.

In 1986, the Secretary of Defense submitted to the Armed Services and on Appropriations Committees a report on the following:

advantages of operating the Department's major agencies on a two-year budget cycle.

switching to a two-year budget cycle.

reports (statutory or otherwise) to the Department of Defense on the advantages of operating the Department on a two-year budget cycle beginning with fiscal year 1986.

LATION

INFLATION.—Not later than 90 days after the date of this Act, the Secretary of Defense shall submit to the Congress a report containing an explanation of the reasons for any decrease in the amount of the Department of Defense budget for any fiscal year as a result of a decrease in the amount of the Department of Defense budget for any fiscal year.

FORM FOR INFLATION ALLOCATION.—The report under subsection (a) shall include a budget system under which the Department of Defense shall allocate the amount of the Department of Defense budget for any fiscal year as a result of a decrease in the amount of the Department of Defense budget for any fiscal year.

the Department of Defense shall submit to the Congress a report containing an explanation of the reasons for any decrease in the amount of the Department of Defense budget for any fiscal year as a result of a decrease in the amount of the Department of Defense budget for any fiscal year.

press at the end of the fiscal year, the Secretary of Defense shall submit to the Congress a report containing an explanation of the reasons for any decrease in the amount of the Department of Defense budget for any fiscal year as a result of a decrease in the amount of the Department of Defense budget for any fiscal year.

y shall include in such report a description of the reasons for any decrease in the amount of the Department of Defense budget for any fiscal year as a result of a decrease in the amount of the Department of Defense budget for any fiscal year.

ions for procedures that shall be submitted under subsection (a) shall include a description of the reasons for any decrease in the amount of the Department of Defense budget for any fiscal year as a result of a decrease in the amount of the Department of Defense budget for any fiscal year.

as and disadvantages of such procedures, with any other comments, and the Secretary of Defense shall submit to the Congress a report containing an explanation of the reasons for any decrease in the amount of the Department of Defense budget for any fiscal year as a result of a decrease in the amount of the Department of Defense budget for any fiscal year.

SEC. 1407. REPORT OF UNOBLIGATED BALANCES

(a) **REQUIRED REPORTS.**—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives reports containing an estimate of the amount of funds in each appropriation account of the Department of Defense that at the time of the report—

(1) is available for obligation; and

(2) is in excess of the amount needed to carry out the programs for which the funds were appropriated.

(b) **MATTERS TO BE INCLUDED.**—Each estimate under subsection (a) shall include amounts attributable to—

(1) inflation savings;

(2) foreign currency savings;

(3) excess working capital fund cash; and

(4) all other savings.

(c) **UNANTICIPATED INCREASES.**—The report shall also identify unanticipated cost increases resulting from adverse economic trends.

(d) **SUBMISSION OF REPORT.**—The reports shall be submitted to Congress each year with the President's budget for the next fiscal year, with the April Budget Update, and with the Mid-Session Budget Review. However, the first such report shall be submitted not later than 90 days after the date of the enactment of this Act.

SEC. 1408. AUTHORIZATION OF APPROPRIATIONS FOR PURCHASE OF FOREIGN CURRENCIES

There is hereby authorized to be appropriated for fiscal year 1986 the amount of \$2,100,000 for the purchase of foreign currencies from the Treasury Department to pay expenses incurred in carrying out programs of the Department of Defense.

PART B—CHEMICAL WEAPONS

SEC. 1411. CONDITIONS ON SPENDING FUNDS FOR BINARY CHEMICAL MUNITIONS

(a) **LIMITATION ON FY86 FUNDS.**—Funds appropriated pursuant to authorizations of appropriations in title I may not be used—

(1) for procurement or assembly of binary chemical munitions (or components of such munitions); or

(2) for establishment of production facilities necessary for procurement or assembly of binary chemical munitions (or components of such munitions),

except in accordance with subsections (b) and (c).

(b) **NATO CONSULTATION.**—Subject to subsection (c), funds referred to in subsection (a) may be used for procurement or assembly of binary chemical munitions or for the establishment of production facilities necessary for the procurement or assembly of binary chemical munitions (or components of such munitions) if the President certifies to Congress that the United States—

(1) has developed a plan under which United States binary chemical munitions can be deployed under appropriate contingency plans to deter chemical weapons attacks against the United States and its allies; and

(2) has consulted with other member nations of the North Atlantic Treaty Organization (NATO) on that plan.

A plan under clause (1) shall be developed in cooperation with the Supreme Allied Commander, Europe.

done last 1/4

(c) **CONDITIONS FOR FINAL ASSEMBLY.**—Funds referred to in subsection (a) may not be used for the final assembly of complete binary chemical munitions before October 1, 1987, and may only be used for such purpose on or after that date if—

(1) a mutually verifiable international agreement concerning binary and other similar chemical munitions has not been entered into by the United States by that date;

(2) the President, after that date, transmits to Congress a certification that—

(A) final assembly of such complete munitions is necessitated by national security interests of the United States and the interests of other NATO member nations;

(B) performance specifications and handling and storage safety specifications established by the Department of Defense with respect to such munitions will be met or exceeded;

(C) applicable Federal safety requirements will be met or exceeded in the handling, storage, and other use of such munitions; and

(D) the plan of the Secretary of Defense for destruction of existing United States chemical warfare stocks developed pursuant to section 1412 (which shall, if not sooner, be transmitted to Congress, accompany such certification) is ready to be implemented;

(3) final assembly is carried out only after the end of the 60-day period beginning on the date such certification is received by the Congress;

(4) the plan of the Secretary of Defense for land-based storage of such munitions within the United States during peacetime provides that the two components that constitute a binary chemical munition are to be stored in separate States; and

(5) the plan of the Secretary of Defense for the transportation of such munitions within the United States during peacetime provides that the two components that constitute a binary munition are transported separately.

(d) **SINCE OF CONGRESS.**—It is the sense of Congress that existing unitary chemical munitions currently stored in the United States and in European member nations of NATO should be replaced by modern, safer binary chemical munitions.

(e) **REPORT.**—Not later than October 1, 1986, the President shall submit to Congress a report describing the results of consultations among NATO member nations concerning the organization's chemical deterrent posture. The report shall include descriptions of any consultations concerning—

(1) efforts to provide key civilian workers at military support facilities in Europe—

(A) with personal and collective equipment to protect against the use of chemical munitions; and

(B) with the training required for the use of such equipment;

(2) efforts to upgrade the chemical reconnaissance, decontamination, and protective capabilities of the military forces of each NATO member nation to a level adequate to meet the chemical threat identified in NATO intelligence estimates;

(3) efforts to initiate a NATO-wide study of measures required to protect ports, airfields, logistics centers, and command and

control facilities in Europe against chemical attack; and

(4) efforts to initiate a more efficient sharing among NATO member nations with regard to deterrence in Europe.

SEC. 1412. DESTRUCTION OF EXISTING AGENTS AND MUNITIONS

(a) **IN GENERAL.**—(1) Notwithstanding the Secretary of Defense (herein referred to as the "Secretary") shall, in accordance with this section, carry out the destruction of lethal chemical agents and munitions in accordance with the enactment of this Act.

(2) Such destruction shall be carried out in accordance with the acquisition of binary chemical weapons.

(b) **DATE FOR COMPLETION.**—(1) Not later than September 20, 1994, the destruction of such munitions shall be completed.

(2) If a treaty banning the production of such munitions is ratified by the United States, the date of destruction shall be the date of the treaty's entry into force.

(3)(A) In the event of a declared national emergency by the President, the Secretary of Defense may determine a delay in the acquisition of such weapons to meet the requirements of the Joint Chiefs of Staff as they may defer, beyond September 20, 1994, more than 10 percent of the stockpile.

(B) The Secretary shall transmit any deferral made under subsection (3)(A) to the Congress, together with a date on which the determination shall be made, whichever is earlier.

(c) **ENVIRONMENTAL PROTECTION.**—The Secretary shall carry out the requirement of this section to provide for—

(A) maximum protection of the public, and the personnel working with the lethal chemical agents; and

(B) adequate and safe facilities for the destruction of lethal chemical agents.

(2) Facilities constructed to carry out this section shall be for any purpose other than the storage of weapons and munitions, and when constructed, such facilities shall be in accordance with applicable laws.

(d) **PLAN.**—(1) The Secretary shall carry out this section.

(2) In developing such plan, the Secretary shall consult with the Secretary of Health and Human Services and the Environmental Protection Agency.

(3) The Secretary shall transmit such plan to Congress not later than March

Defense and national security.

Post, p. 747.

-NOV. 8, 1985

-Funds referred to in subsection (a) of complete binary 1987, and may only be used for

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and handling and storage and by the Department of munitions will be met or

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of Defense for destruction of al warfare stocks developed which shall, if not sooner (pany such certification) is

only after the end of the 60- ch certification is received

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, 1936, the President shall be results of consultations g the organization's chemi- nclude descriptions of any

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PUBLIC LAW 99-145—NOV. 8, 1985

99 STAT. 747

control facilities in European member nations of NATO against chemical attack; and

(4) efforts to initiate a NATO-wide study of equitable and efficient sharing among NATO member nations of responsibilities with regard to deterring the use of chemical munitions in Europe.

SEC. 1412. DESTRUCTION OF EXISTING STOCKPILE OF LETHAL CHEMICAL AGENTS AND MUNITIONS 50 USC 1521.

(a) IN GENERAL.—(1) Notwithstanding any other provision of law, the Secretary of Defense (hereinafter in this section referred to as the "Secretary") shall, in accordance with the provisions of this section, carry out the destruction of the United States' stockpile of lethal chemical agents and munitions that exists on the date of the enactment of this Act.

(2) Such destruction shall be carried out in conjunction with the acquisition of binary chemical weapons for use by the Armed Forces.

(b) DATE FOR COMPLETION.—(1) Except as provided by paragraphs (2) and (3), the destruction of such stockpile shall be completed by September 30, 1994.

(2) If a treaty banning the possession of chemical agents and munitions is ratified by the United States, the date for completing the destruction of the United States' stockpile of such agents and munitions shall be the date established by such treaty.

(3)(A) In the event of a declaration of war by the Congress or of a national emergency by the President or the Congress or if the Secretary of Defense determines that there has been a significant delay in the acquisition of an adequate number of binary chemical weapons to meet the requirements of the Armed Forces (as defined by the Joint Chiefs of Staff as of September 30, 1935), the Secretary may defer, beyond September 30, 1994, the destruction of not more than 10 percent of the stockpile described in subsection (a)(1).

(B) The Secretary shall transmit written notice to the Congress of any deferral made under subparagraph (A) within 30 days after the date on which the determination to defer is made or by August 31, 1994, whichever is earlier.

(c) ENVIRONMENTAL PROTECTION AND USE OF FACILITIES.—(1) In carrying out the requirement of subsection (a)(1), the Secretary shall provide for—

(A) maximum protection for the environment, the general public, and the personnel who are involved in the destruction of the lethal chemical agents and munitions referred to in subsection (a); and

(B) adequate and safe facilities designed solely for the destruction of lethal chemical agents and munitions.

(2) Facilities constructed to carry out this section may not be used for any purpose other than the destruction of lethal chemical weapons and munitions, and when no longer needed to carry out this section, such facilities shall be cleaned, dismantled, and disposed of in accordance with applicable laws and regulations.

(d) PLAN.—(1) The Secretary shall develop a comprehensive plan to carry out this section.

(2) In developing such plan, the Secretary shall consult with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency.

(3) The Secretary shall transmit a copy of such plan to the Congress not later than March 15, 1986.

(4) Such plan shall provide—

(A) an evaluation of the comparison of onsite destruction, regional destruction centers, and a national destruction site both inside and outside of the United States;

(B) for technological advances in techniques used to destroy chemical munitions;

(C) for the maintenance of a permanent, written record of the destruction of lethal chemical agents and munitions carried out under this section; and

(D) a description of—

(i) the methods and facilities to be used in the destruction of agents and munitions under this section;

(ii) the schedule for carrying out this section; and

(iii) the management organization established under subsection (e).

(e) **MANAGEMENT ORGANIZATION.**—(1) In carrying out this section, the Secretary shall provide for the establishment, not later than May 1, 1986, of a management organization within the Department of the Army.

(2) Such organization shall be responsible for management of the destruction of agents and munitions under this section.

(3) The Secretary shall designate a general officer as the director of the management organization established under paragraph (1). Such officer shall have—

(A) experience in the acquisition, storage, and destruction of chemical agents and munitions;

(B) training in chemical warfare defense operations; and

(C) outstanding qualifications regarding safety in handling chemical agents and munitions.

(f) **IDENTIFICATION OF FUNDS.**—Funds for carrying out this section shall be set forth in the budget of the Department of Defense for any fiscal year as a separate account. Such funds shall not be included in the budget accounts for any military department. Funds for military construction projects necessary to carry out this section may be set out in the annual military construction budget separately from other funds for such project.

(g) **ANNUAL REPORT.**—(1) Except as provided by paragraph (4), the Secretary shall transmit, by December 15 of each year, a report to the Congress on the activities carried out under this section during the fiscal year ending on September 30 of the calendar year in which the report is to be made.

(2) The first such report shall be transmitted by December 15, 1985, and shall contain—

(A) an accounting of the United States' stockpile of lethal chemical agents and munitions on the date of the enactment of this Act; and

(B) a schedule of the activities planned to be carried out under this section during fiscal year 1986.

(3) Each report other than the first one shall contain—

(A) a site-by-site description of the construction, equipment, operation, and dismantling of facilities (during the fiscal year for which the report is made) used to carry out the destruction of agents and munitions under this section, including any accidents or other unplanned occurrences associated with such construction and operation; and

(B) an accounting (year) for activities carried out under this section, including a rate accounting for a

(i) the construction of the destruction

(ii) the operation

(iii) the dismantling

(iv) research and

(v) program management

(4) The Secretary shall submit such report not later than 120 days after the end of the fiscal year under this section.

(h) **PROHIBITION ON ACQUISITION OF CHEMICAL AGENTS AND MUNITIONS.**—(1) Except as provided in this Act, the Secretary shall not acquire, develop, or acquire other than binary chemical agents or munitions.

(2)(A) The Secretary shall not acquire or munition at any time if

(B) Chemical agents and munitions are being developed, tested, and evaluated in quantities needed for quantities.

(i) **REAFFIRMATION OF POLICY.**—The President should pursue the policy of the United States as set out in the Chemical Weapons Convention, States ratified with reservations.

(j) **DEFINITIONS.**—For purposes of this section:

(1) The term "chemical agent or munition" means a chemical agent or munition that, if used, would cause lethal or other damage to humans, animals, crops, livestock, or property, such term does not include pesticides, smoke, and other

(2) The term "lethal chemical agent or munition" means a chemical agent or munition that, if used, would cause death through its chemical action.

(3) The term "destruction of chemical agents or munitions" means

(A) the destruction of chemical agents or munitions by incineration or by

(B) the dismantling of chemical agents or munitions so as to make them harmless to humans.

(k) **EFFECTIVE DATE.**—This Act shall have effect on October 1, 1985.

SEC. 1412. REPORT CONCERNING CHEMICAL AGENTS

The Secretary of Defense shall submit to the Congress, by the date of the enactment of this Act, a report on the activities of the Armed Services of the Secretary of Defense in the following matters: (1) The criteria and methods for testing.

(B) an accounting of all funds expended (during such fiscal year) for activities carried out under this section, with a separate accounting for amounts expended for—

- (i) the construction of and equipment for facilities used for the destruction of agents and munitions;
- (ii) the operation of such facilities;
- (iii) the dismantling or other closure of such facilities;
- (iv) research and development; and
- (v) program management.

Research and
development.

(4) The Secretary shall transmit the final report under this subsection not later than 120 days following the completion of activities under this section.

(h) **PROHIBITION ON ACQUIRING CERTAIN LETHAL CHEMICAL AGENTS AND MUNITIONS.**—(1) Except as provided in paragraph (2), no agency of the Federal Government may, after the date of the enactment of this Act, develop or acquire lethal chemical agents or munitions other than binary chemical weapons.

(2)(A) The Secretary of Defense may acquire any chemical agent or munition at any time for purposes of intelligence analysis.

(B) Chemical agents and munitions may be acquired for research, development, test, and evaluation purposes at any time, but only in quantities needed for such purposes and not in production quantities.

Research and
development.

(i) **REAFFIRMATION OF UNITED STATES POSITION ON FIRST USE OF CHEMICAL AGENTS AND MUNITIONS.**—It is the sense of Congress that the President should publicly reaffirm the position of the United States as set out in the Geneva Protocol of 1925, which the United States ratified with reservations in 1975.

(j) **DEFINITIONS.**—For purposes of this section:

(1) The term "chemical agent and munition" means an agent or munition that, through its chemical properties, produces lethal or other damaging effects on human beings, except that such term does not include riot control agents, chemical herbicides, smoke and other obscuration materials.

(2) The term "lethal chemical agent and munition" means a chemical agent or munition that is designed to cause death, through its chemical properties, to human beings in field concentrations.

(3) The term "destruction" means, with respect to chemical munitions or agents—

(A) the demolition of such munitions or agents by incineration or by any other means; or

(B) the dismantling or other disposal of such munitions or agents so as to make them useless for military purposes and harmless to human beings under normal circumstances.

(k) **EFFECTIVE DATE.**—The provisions of this section shall take effect on October 1, 1985.

SEC. 1413. REPORT CONCERNING THE TESTING OF CHEMICAL WARFARE AGENTS

The Secretary of Defense shall, within 90 days after the date of enactment of this Act, transmit a report to the Committees on Armed Services of the Senate and House of Representatives describing the following matters concerning the testing of diluted or undiluted chemical warfare agents:

- (1) The criteria and process used for selecting sites for such testing.

warhead ICBM capable of mobile deployment. Key elements of such a program which should be pursued immediately include missile design, guidance accuracy, hardened mobile transporter design, mobile basing and survivable Communication, Command and Control (C²). Program emphasis should be consistent with past top national priorities such as Polaris, Minuteman, and Apollo, and program management structure should also reflect such priority. The Department of Defense should set forth funding and production schedules consistent with the earliest possible Initial Operational Capability (IOC), at or prior to 1992, in its submission to Congress to authorize appropriations for fiscal year 1985.

LIMITATION ON PROCUREMENT OF BINARY CHEMICAL WEAPONS

SEC. 1233. (a) Notwithstanding any other provision of law, no funds may be obligated or expended after the date of the enactment of this Act for the production of binary chemical weapons unless the President certifies to the Congress that for each 155-millimeter binary artillery shell or aircraft-delivered binary aerial bomb produced a serviceable unitary artillery shell from the existing arsenal shall be rendered permanently useless for military purposes.

50 USC 1519a.

(b)(1) Funds appropriated pursuant to the authorization of appropriations for the Army in section 101 of this Act may be used for the establishment of a production base for binary chemical munitions and for the procurement of components for 155-millimeter binary chemical artillery projectiles, but such funds may not be used for the actual production of binary chemical munitions before October 1, 1985.

Ante, p. 618.

(2) Notwithstanding the provisions of paragraph (1), before the production of binary chemical munitions may begin after September 30, 1985, the President must certify to Congress in writing that, in light of circumstances prevailing at the time the certification is made, the production of such munitions is essential to the national interest.

Written certifications to Congress.

(3) For purposes of this subsection, "production of binary chemical munitions" means the final assembly of weapon components and the filling or loading of components with binary chemicals.

"Production of binary chemical munitions."

PROHIBITION AGAINST USING FUNDS APPROPRIATED FOR THE ADVANCED TECHNOLOGY BOMBER PROGRAM FOR ANY OTHER PURPOSE

SEC. 1234. None of the funds appropriated pursuant to an authorization of appropriations in this Act to carry out the Advanced Technology Bomber program may be used for any other purpose.

ESTABLISHING CRITERIA GOVERNING THE TEST OF ANTISATELLITE WARHEADS

SEC. 1235. Notwithstanding any other provision of law, none of the funds appropriated pursuant to an authorization contained in this or any other Act may be obligated or expended to test any explosive or inert antisatellite warheads against objects in space unless the President determines and certifies to the Congress—

Funding restriction.

(1) that the United States is endeavoring, in good faith, to negotiate with the Soviet Union a mutual and verifiable ban on antisatellite weapons; and



THE SECRETARY OF DEFENSE

WASHINGTON, THE DISTRICT OF COLUMBIA

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*Chemical
weapons*

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Frank

MEMORANDUM FOR ASSISTANT TO THE PRESIDENT FOR NATIONAL
SECURITY AFFAIRS

SUBJECT: Presidential Certification on Final Assembly of the
155mm Binary Chemical Projectile

The proposed Presidential certification concerning final assembly of the 155mm Binary Chemical Projectile is attached. All requirements for production and final assembly of the first binary munition have been satisfied. We are prepared to initiate final assembly of the first such munition on completion of the required 60 day period following receipt by the Congress of the President's certification.

Of the various issues to be certified, only two are considered to be potentially controversial. The first concerns a certification required by PL 98-94 concerning the destruction of at least one unitary artillery projectile for each binary artillery projectile or aircraft delivered binary aerial bomb to be produced. The second concerns whether the plan for destruction of the unitary chemical stockpile is "ready to be implemented."

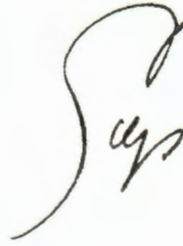
With regard to the first issue, there is some question as to whether there is a need to submit the certification required by PL 98-94 given the more recent requirement of PL 99-145. Given that Congress did not expressly rescind the requirement, and that we are in a position to make the certification, we believe the best course of action is to certify and thereby reduce the bases for later challenge.

With regard to the second issue, those actions necessary to comply with the National Environmental Policy Act (NEPA) are part of the plan which was submitted to the Congress in March 1986. The filing of the draft programmatic environmental impact statement in July, 1986 is the first of those NEPA compliance actions. Accordingly, we have concluded that the plan developed pursuant to section 1412 of PL 99-145 is not only ready for implementation but that implementation has begun.

This action culminates more than six years of intense legislative debate concerning the decision to modernize our chemical warfare deterrent. The final assembly of these munitions is important not only to the security of our military forces, but also as a further incentive for arms control in this

W18691

area and as a symbol of our resolve realistically to address the growing worldwide threat of chemical warfare. It is most important that we proceed as soon as possible.

A handwritten signature in dark ink, appearing to be 'Saps', is located to the right of the typed text.

Attachment
Presidential Certification

DRAFT

To the Congress of the United States:

Pursuant to Section 1233 of the Department of Defense Authorization Act, 1984, Public Law 98-94, I hereby certify with respect to the binary chemical munitions program that, for each 155 millimeter binary artillery shell or aircraft delivered binary aerial bomb produced a serviceable unitary artillery shell from the existing arsenal shall be rendered permanently useless for military purposes.

Pursuant to Section 1411 of the Department of Defense Authorization Act, 1986, Public Law 99-145, as amended, I hereby certify with respect to the 155mm Binary Chemical Artillery Projectile that:

(1) final assembly of such complete munitions is necessitated by national security interests of the United States and the interests of other NATO member nations;

(2) performance specifications and handling and storage safety specifications established by the Department of Defense with respect to such munitions will be met or exceeded;

(3) applicable Federal safety requirements will be met or exceeded in the handling, storage and other use of such munitions; and

(4) the plan of the Secretary of Defense for destruction of existing United States chemical warfare stocks developed pursuant to section 1412 of the Department of Defense Authorization Act, 1986, Public Law 99-145, is ready to be implemented.

I note with regard to the fourth numbered paragraph that the Plan, submitted to the Congress on March 15, 1986, recognized and included the ongoing actions to comply with the National Environmental Policy Act as an essential element of the decision making process. Therefore, the initial steps for implementation of the plan for destruction of the existing United States chemical warfare stocks have already been taken with the filing of the draft programmatic environmental impact statement in July, 1986. I am pleased to make this certification on a program so vital to our national defense. We continue to seek a comprehensive and verifiable ban on all chemical weapons. Until we achieve that goal, we must maintain a safe and viable chemical weapon stockpile to deter use of chemicals by our potential adversaries. I appreciate your continued support for this program.

RONALD REAGAN

The White House, October __ , 1987.

DRAFT

warhead ICBM capable of mobile deployment. Key elements of such a program which should be pursued immediately include missile design, guidance accuracy, hardened mobile transporter design, mobile basing and survivable Communication, Command and Control (C³). Program emphasis should be consistent with past top national priorities such as Polaris, Minuteman, and Apollo, and program management structure should also reflect such priority. The Department of Defense should set forth funding and production schedules consistent with the earliest possible Initial Operational Capability (IOC), at or prior to 1992, in its submission to Congress to authorize appropriations for fiscal year 1985.

LIMITATION ON PROCUREMENT OF BINARY CHEMICAL WEAPONS

Sec. 1233. (a) Notwithstanding any other provision of law, no funds may be obligated or expended after the date of the enactment of this Act for the production of binary chemical weapons unless the President certifies to the Congress that for each 155-millimeter binary artillery shell or aircraft-delivered binary aerial bomb produced a serviceable unitary artillery shell from the existing arsenal shall be rendered permanently useless for military purposes.

50 USC 1519a.

(b)(1) Funds appropriated pursuant to the authorization of appropriations for the Army in section 101 of this Act may be used for the establishment of a production base for binary chemical munitions and for the procurement of components for 155-millimeter binary chemical artillery projectiles, but such funds may not be used for the actual production of binary chemical munitions before October 1, 1985.

Ante, p. 618.

(2) Notwithstanding the provisions of paragraph (1), before the production of binary chemical munitions may begin after September 30, 1985, the President must certify to Congress in writing that, in light of circumstances prevailing at the time the certification is made, the production of such munitions is essential to the national interest.

Written certifications to Congress.

(3) For purposes of this subsection, "production of binary chemical munitions" means the final assembly of weapon components and the filling or loading of components with binary chemicals.

"Production of binary chemical munitions."

PROHIBITION AGAINST USING FUNDS APPROPRIATED FOR THE ADVANCED TECHNOLOGY BOMBER PROGRAM FOR ANY OTHER PURPOSE

Sec. 1234. None of the funds appropriated pursuant to an authorization of appropriations in this Act to carry out the Advanced Technology Bomber program may be used for any other purpose.

ESTABLISHING CRITERIA GOVERNING THE TEST OF ANTISATELLITE WARHEADS

Sec. 1235. Notwithstanding any other provision of law, none of the funds appropriated pursuant to an authorization contained in this or any other Act may be obligated or expended to test any explosive or inert antisatellite warheads against objects in space unless the President determines and certifies to the Congress—

Funding restriction.

(1) that the United States is endeavoring, in good faith, to negotiate with the Soviet Union a mutual and verifiable ban on antisatellite weapons; and

DRB

Public Law 99-145
99th Congress

An Act

To authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for the Department of Defense for fiscal year 1986, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize appropriations for fiscal year 1986 for national security programs of the Department of Energy, and for other purposes.

Nov. 8, 1985
[S. 1160]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Department of
Defense
Authorization
Act, 1986.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the "Department of Defense Authorization Act, 1986".

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

Sec. 1. Short title; table of contents.

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

- Sec. 101. Army.
- Sec. 102. Navy and Marine Corps.
- Sec. 103. Air Force.
- Sec. 104. Reserve components.
- Sec. 105. Defense Agencies.
- Sec. 106. NATO cooperative programs.
- Sec. 107. Reductions in authorizations due to savings from lower inflation and prior-year cost savings.
- Sec. 108. Provisions relating to transfers of prior-year funds.
- Sec. 109. Report on reductions and transfers.
- Sec. 110. Improvement in conventional readiness capability.

PART B—ARMY PROGRAM LIMITATIONS

- Sec. 121. Sergeant York Division Air Defense (DIVAD) gun.
- Sec. 122. Bradley Fighting Vehicle.
- Sec. 123. Conditions on procurement of certain combat vehicles.
- Sec. 124. Sale of L119 howitzers overseas.
- Sec. 125. Restrictions on purchase of 5-ton trucks.
- Sec. 126. Other Army programs.

PART C—NAVY PROGRAM LIMITATIONS

- Sec. 131. A6 aircraft refueling program.
- Sec. 132. Limitations on Navy aircraft procurement.

PART D—AIR FORCE PROGRAM LIMITATIONS

- Sec. 141. MX missile program.
- Sec. 142. Competition for Air Force fighter aircraft procurement.
- Sec. 143. Advanced technology bomber.
- Sec. 144. Special operations forces HH-53 helicopters.

PART E—OTHER LIMITATIONS

- Sec. 151. C-12 aircraft.
- Sec. 152. Adequate airlift for special operations forces.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS OF APPROPRIATIONS AND PROGRAM LIMITATIONS

- Sec. 201. Authorization of appropriations.

as and disadvantages of
with any other comment
any considers appropriate

A plan under clause (1) shall be developed in cooperation with the Supreme Allied Commander, Europe.

(c) **CONDITIONS FOR FINAL ASSEMBLY.**—Funds referred to in subsection (a) may not be used for the final assembly of complete binary chemical munitions before October 1, 1987, and may only be used for such purpose on or after that date if—

(1) a mutually verifiable international agreement concerning binary and other similar chemical munitions has not been entered into by the United States by that date;

(2) the President, after that date, transmits to Congress a certification that—

(A) final assembly of such complete munitions is necessitated by national security interests of the United States and the interests of other NATO member nations;

(B) performance specifications and handling and storage safety specifications established by the Department of Defense with respect to such munitions will be met or exceeded;

(C) applicable Federal safety requirements will be met or exceeded in the handling, storage, and other use of such munitions; and

(D) the plan of the Secretary of Defense for destruction of existing United States chemical warfare stocks developed pursuant to section 1412 (which shall, if not sooner, be transmitted to Congress, accompany such certification) is ready to be implemented;

(3) final assembly is carried out only after the end of the 60-day period beginning on the date such certification is received by the Congress;

(4) the plan of the Secretary of Defense for land-based storage of such munitions within the United States during peacetime provides that the two components that constitute a binary chemical munition are to be stored in separate States; and

(5) the plan of the Secretary of Defense for the transportation of such munitions within the United States during peacetime provides that the two components that constitute a binary munition are transported separately.

(d) **SINCE OF CONGRESS.**—It is the sense of Congress that existing unitary chemical munitions currently stored in the United States and in European member nations of NATO should be replaced by modern, safer binary chemical munitions.

(e) **REPORT.**—Not later than October 1, 1986, the President shall submit to Congress a report describing the results of consultations among NATO member nations concerning the organization's chemical deterrent posture. The report shall include descriptions of any consultations concerning—

(1) efforts to provide key civilian workers at military support facilities in Europe—

(A) with personal and collective equipment to protect against the use of chemical munitions; and

(B) with the training required for the use of such equipment;

(2) efforts to upgrade the chemical reconnaissance, decontamination, and protective capabilities of the military forces of each NATO member nation to a level adequate to meet the chemical threat identified in NATO intelligence estimates;

(3) efforts to initiate a NATO-wide study of measures required to protect ports, airfields, logistics centers, and command and

control facilities in European chemical attack; and

(4) efforts to initiate a N efficient sharing among NA ities with regard to deterring Europe.

SEC. 1412. DESTRUCTION OF EXISTING AGENTS AND MUNITION

(a) **IN GENERAL.**—(1) Notwithstanding the Secretary of Defense (herein the "Secretary") shall, in accordance with this section, carry out the destruction of lethal chemical agents and munitions in accordance with the enactment of this Act.

(2) Such destruction shall be carried out in accordance with the acquisition of binary chemical weapons.

(b) **DATE FOR COMPLETION.**—(1) (2) and (3), the destruction of such munitions shall be completed on or before September 30, 1994.

(2) If a treaty banning the production of such munitions is ratified by the United States, the destruction of the United States munitions shall be the date established in such treaty.

(3)(A) In the event of a declared national emergency by the President, the Secretary of Defense determine the delay in the acquisition of an equal number of weapons to meet the requirements by the Joint Chiefs of Staff as to the date on which the destruction may defer, beyond September 30, 1994, of more than 10 percent of the stockpile.

(B) The Secretary shall transmit any deferral made under subsection (a) to the date on which the determination is made, whichever is earlier.

(c) **ENVIRONMENTAL PROTECTION.**—The Secretary shall carry out the requirement of this section to provide for—

(A) maximum protection of the public and the personnel working with the lethal chemical agents; and

(B) adequate and safe facilities for the destruction of lethal chemical agents.

(2) Facilities constructed to carry out this section shall be for any purpose other than the storage of weapons and munitions, and when constructed, such facilities shall be in accordance with applicable law.

(d) **PLAN.**—(1) The Secretary shall develop a plan to carry out this section.

(2) In developing such plan, the Secretary shall consult with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency.

(3) The Secretary shall transmit such plan to Congress not later than March

Defense and national security.

Post, p. 747.

[illegible]

99 STAT. 747

(4) efforts to initiate a NATO-wide study of equitable and efficient sharing among NATO member nations of responsibilities with regard to deterring the use of chemical munitions in Europe.

(a) IN GENERAL.—(1) Notwithstanding any other provision of law, the Secretary of Defense (hereinafter in this section referred to as the "Secretary") shall, in accordance with the provisions of this section, carry out the destruction of the United States' stockpile of lethal chemical agents and munitions that exists on the date of the enactment of this Act.

(b) **DATZ FOR COMPLETION.**—(1) Except as provided by paragraphs (2) and (3), the destruction of such stockpile shall be completed by September 30, 1994.

(2) If a treaty banning the possession of chemical agents and munitions is ratified by the United States, the date for completing the destruction of the United States' stockpile of such agents and munitions shall be the date established by such treaty.

(3)(A) In the event of a declaration of war by the Congress or of a national emergency by the President or the Congress or if the Secretary of Defense determines that there has been a significant delay in the acquisition of an adequate number of binary chemical weapons to meet the requirements of the Armed Forces (as defined by the Joint Chiefs of Staff as of September 30, 1935), the Secretary may defer, beyond September 30, 1994, the destruction of not more than 10 percent of the stockpile described in subsection (2)(7).

(B) The Secretary shall transmit written notice to the Congress of any deferral made under subparagraph (A) within 30 days after the date on which the determination to defer is made or by August 31, 1994, whichever is earlier.

(c) ENVIRONMENTAL PROTECTION AND USE OF FACILITIES.—(1) In carrying out the requirement of subsection (a)(1), the Secretary shall provide for—

(A) maximum protection for the environment, the general public and the personnel who are involved in the destruction of the lethal chemical agents and munitions referred to in subsection (a); and

(B) adequate and safe facilities designed solely for the destruction of lethal chemical agents and munitions.

(2) Facilities constructed to carry out this section may not be used for any purpose other than the destruction of lethal chemical weapons and munitions, and when no longer needed to carry out this section, such facilities shall be cleaned, dismantled, and disposed of in accordance with applicable laws and regulations.

(d) PLAN.—(1) The Secretary shall develop a comprehensive plan to carry out this section.

(2) In developing such plan, the Secretary shall consult with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency.

(3) The Secretary shall transmit a copy of such plan to the Congress not later than March 15, 1935.

(4) Such plan shall provide—

(A) an evaluation of the comparison of onsite destruction, regional destruction centers, and a national destruction site both inside and outside of the United States;

(B) for technological advances in techniques used to destroy chemical munitions;

(C) for the maintenance of a permanent, written record of the destruction of lethal chemical agents and munitions carried out under this section; and

(D) a description of—

(i) the methods and facilities to be used in the destruction of agents and munitions under this section;

(ii) the schedule for carrying out this section; and

(iii) the management organization established under subsection (e).

(e) **MANAGEMENT ORGANIZATION.**—(1) In carrying out this section the Secretary shall provide for the establishment, not later than May 1, 1986, of a management organization within the Department of the Army.

(2) Such organization shall be responsible for management of the destruction of agents and munitions under this section.

(3) The Secretary shall designate a general officer as the director of the management organization established under paragraph (1). Such officer shall have—

(A) experience in the acquisition, storage, and destruction of chemical agents and munitions;

(B) training in chemical warfare defense operations; and

(C) outstanding qualifications regarding safety in handling chemical agents and munitions.

(f) **IDENTIFICATION OF FUNDS.**—Funds for carrying out this section shall be set forth in the budget of the Department of Defense for any fiscal year as a separate account. Such funds shall not be included in the budget accounts for any military department. Funds for military construction projects necessary to carry out this section may be set out in the annual military construction budget separately from other funds for such project.

(g) **ANNUAL REPORT.**—(1) Except as provided by paragraph (4), the Secretary shall transmit, by December 15 of each year, a report to the Congress on the activities carried out under this section during the fiscal year ending on September 30 of the calendar year in which the report is to be made.

(2) The first such report shall be transmitted by December 15, 1985, and shall contain—

(A) an accounting of the United States' stockpile of lethal chemical agents and munitions on the date of the enactment of this Act; and

(B) a schedule of the activities planned to be carried out under this section during fiscal year 1986.

(3) Each report other than the first one shall contain—

(A) a site-by-site description of the construction, equipment, operation, and dismantling of facilities (during the fiscal year for which the report is made) used to carry out the destruction of agents and munitions under this section, including any accidents or other unplanned occurrences associated with such construction and operation; and

(B) an accounting year) for activities carried out under this section.

(i) the construction

for the destruction

(ii) the operation

(iii) the dismantling

(iv) research and

(v) program management

(4) The Secretary shall transmit the report not later than 120 days after the end of the fiscal year under this section.

(h) **PROHIBITION ON ACQUISITION OF CHEMICAL AGENTS AND MUNITIONS.**—(1) Except as provided in this Act, the Secretary shall not develop or acquire other than binary chemicals.

(2)(A) The Secretary shall not develop or acquire munition at any time for

(B) Chemical agents and munitions for development, test, and evaluation of quantities needed for a program.

(i) **REAFFIRMATION OF U.S. POLICY ON CHEMICAL AGENTS AND MUNITIONS.**—The President should publish the policy of the United States as set out in the Global Security Treaties ratified with reserve.

(j) **DEFINITIONS.**—For purposes of this section:

(1) The term "chemical agent or munition" means any chemical agent or munition that, if released, could cause lethal or other damage to humans or animals; such term does not include pesticides, smoke, and other chemicals.

(2) The term "lethal chemical agent or munition" means any chemical agent or munition through its chemical concentration.

(3) The term "destructive munitions or agents" means—

(A) the demolition of structures or by

(B) the dismantling of chemical agents so as to make them harmless to humans.

(k) **EFFECTIVE DATE.**—This Act shall have effect on October 1, 1985.

SEC. 1412. REPORT CONCERNING CHEMICAL AGENTS

The Secretary of Defense shall submit to the Armed Services of the Senate the following matter relating to chemical warfare:

(1) The criteria and methods for testing.

(B) an accounting of all funds expended (during such fiscal year) for activities carried out under this section, with a separate accounting for amounts expended for—

- (i) the construction of and equipment for facilities used for the destruction of agents and munitions;
- (ii) the operation of such facilities;
- (iii) the dismantling or other closure of such facilities;
- (iv) research and development; and
- (v) program management.

Research and development.

(4) The Secretary shall transmit the final report under this subsection not later than 120 days following the completion of activities under this section.

(h) PROHIBITION ON ACQUIRING CERTAIN LETHAL CHEMICAL AGENTS AND MUNITIONS.—(1) Except as provided in paragraph (2), no agency of the Federal Government may, after the date of the enactment of this Act, develop or acquire lethal chemical agents or munitions other than binary chemical weapons.

(2)(A) The Secretary of Defense may acquire any chemical agent or munition at any time for purposes of intelligence analysis.

(B) Chemical agents and munitions may be acquired for research, development, test, and evaluation purposes at any time, but only in quantities needed for such purposes and not in production quantities.

Research and development.

(i) REAFFIRMATION OF UNITED STATES POSITION ON FIRST USE OF CHEMICAL AGENTS AND MUNITIONS.—It is the sense of Congress that the President should publicly reaffirm the position of the United States as set out in the Geneva Protocol of 1925, which the United States ratified with reservations in 1975.

(j) DEFINITIONS.—For purposes of this section:

(1) The term "chemical agent and munition" means an agent or munition that, through its chemical properties, produces lethal or other damaging effects on human beings, except that such term does not include riot control agents, chemical herbicides, smoke and other obscuration materials.

(2) The term "lethal chemical agent and munition" means a chemical agent or munition that is designed to cause death, through its chemical properties, to human beings in field concentrations.

(3) The term "destruction" means, with respect to chemical munitions or agents—

(A) the demolition of such munitions or agents by incineration or by any other means; or

(B) the dismantling or other disposal of such munitions or agents so as to make them useless for military purposes and harmless to human beings under normal circumstances.

(k) EFFECTIVE DATE.—The provisions of this section shall take effect on October 1, 1985.

SEC. 1412. REPORT CONCERNING THE TESTING OF CHEMICAL WARFARE AGENTS

The Secretary of Defense shall, within 90 days after the date of enactment of this Act, transmit a report to the Committees on Armed Services of the Senate and House of Representatives describing the following matters concerning the testing of diluted or undiluted chemical warfare agents:

- (1) The criteria and process used for selecting sites for such testing.

File Chemical weapons
7255

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

ACTION

October 7, 1987

MEMORANDUM FOR FRANK C. CARLUCCI

FROM:

BK *Traveling* *Bob*
BILL HEISER/DON MAHLEY/BOB LINHARD

SUBJECT:

Presidential Certification on Binary Chemical
Projectile Final Assembly

The purpose of this memorandum is to forward for the President's approval and signature a proposed certification concerning the final assembly of the 155mm Binary Chemical Projectile. The Department of Defense is prepared to initiate final assembly of the first binary munition on completion of the required 60-day period following receipt by the Congress of the President's certification that all requirements for production and final assembly of such munitions have been satisfied.

The Department of Defense has informed us that all requirements for Presidential certification have been satisfied. Secretary Weinberger's memorandum is attached at TAB II.

Detailed Congressional conditions for DOD obligation and expenditure of funds for the production of binary chemical weapons (CW) and final assembly of complete binary munitions are set forth in the DOD Authorization Acts of 1984 and 1986, respectively. The appropriate extracts from these documents and a fact sheet on DOD's Binary Chemical Projectile program are provided for your reference at TAB III.

As the Secretary of Defense has noted in his memorandum to you, presidential certification for the final assembly of the 155mm binary projectile and the resulting modernization of our CW deterrent capability, represents the culmination of six years of Congressional debate. Proceeding with CW modernization is necessary to provide a credible CW deterrent in light of the Soviet Union's continued expansion and modernization of its chemical weapons stockpile and the increasing number of countries possessing or seeking to acquire a CW capability.

The CW Interdepartmental Group is developing press guidance for use as necessary when the Presidential certification is forwarded to Congress. With regard to the timing for sending the certification to Congress, we should move ahead with dispatch. The sooner Congress receives the Presidential certification, the sooner the 60-day waiting period will expire and final assembly of the 155mm binary chemical projectile can begin.

B clear* *3* clear* *N* *B* clear*
Bill Cockell, Alison Fortier, Nicholas Rostow, Linton Brooks and
Steve Steiner concur.

RECOMMENDATION

That you sign the memorandum to the President at TAB I forwarding
a proposed certification letter to the Congress.

Approve _____

Disapprove _____

Attachments

TAB I Memorandum to the President
 Tab A Certification Letter to the House
 Tab B Certification Letter to the Senate
TAB II SecDef Letter on Presidential Certification
TAB III 155mm Binary Chemical Projectile Fact Sheet and
 Relevant Extracts from DOD Authorization Acts

THE WHITE HOUSE

WASHINGTON

7255

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK C. CARLUCCI

SUBJECT: Presidential Certification of Binary Chemical Weapons

Issue

Whether to certify to Congress that statutory requirements for the production and final assembly of the 155mm Binary Chemical Projectile have been satisfied, thereby allowing this chemical weapons (CW) modernization program to begin.

Fact

The Department of Defense has met all statutory conditions for commencing this CW modernization program. The Secretary of Defense requests that presidential certification to this effect be provided to Congress so that, as provided by law, the Department of Defense may initiate final assembly of these new binary munitions 60 days after receipt by Congress of such certification.

Discussion

This CW modernization program will contribute substantially to your long-standing objective of acquiring a credible CW deterrent capability in view of the significant Soviet CW threat the United States confronts.

In accordance with NSDD-266, the Office of Legal Adviser to the NSC has coordinated the attached certification with A. B. Culvahouse in advance of its submission to you.

Recommendation

OK

No

That you sign the letters to the President of the Senate and to the Speaker of the House at Tabs A and B.

Attachments

Tab A Letter to President of the Senate
Tab B Letter to Speaker of the House

Prepared by:
Bill Heiser

THE WHITE HOUSE

WASHINGTON

Dear Mr. Speaker:

Pursuant to Section 1233 of the Department of Defense Authorization Act, 1984, Public Law 98-94, I hereby certify with respect to the binary chemical munitions program that, for each 155 millimeter binary artillery shell or aircraft-delivered binary aerial bomb produced a serviceable unitary artillery shell from the existing arsenal shall be rendered permanently useless for military purposes.

Pursuant to Section 1411 of the Department of Defense Authorization Act, 1986, Public Law 99-145, as amended, I hereby certify with respect to the 155mm Binary Chemical Artillery Projectile that:

(1) final assembly of such complete munitions is necessitated by national security interests of the United States and the interests of other NATO member nations;

(2) performance specifications and handling and storage safety specifications established by the Department of Defense with respect to such munitions will be met or exceeded;

(3) applicable Federal safety requirements will be met or exceeded in the handling, storage and other use of such munitions; and

(4) the plan of the Secretary of Defense for destruction of existing United States chemical warfare stocks developed pursuant to section 1412 of the Department of Defense Authorization Act, 1986, Public Law 99-145, is ready to be implemented.

I note with regard to the fourth numbered paragraph above that the Plan, submitted to Congress on March 15, 1986, recognized and included the ongoing actions to comply with the National Environmental Policy Act as an essential element of the decision making process. Therefore, the initial steps for implementation of the plan for destruction of the existing United States chemical warfare stocks have already been taken with the filing of the draft programmatic environmental impact statement in July, 1986.

- 2 -

I am pleased to make this certification on a program so vital to our national security. We continue to seek a global, effectively verifiable ban on chemical weapons. Until we achieve that goal, however, it is essential that we maintain a safe, modern chemical weapon stockpile to deter use of chemicals by our potential adversaries. I will be counting on your continued support for this program.

The Honorable Jim Wright
Speaker of the
House of Representatives
Washington, D. C. 20510

THE WHITE HOUSE

WASHINGTON

Dear Mr. President:

Pursuant to Section 1233 of the Department of Defense Authorization Act, 1984, Public Law 98-94, I hereby certify with respect to the binary chemical munitions program that, for each 155 millimeter binary artillery shell or aircraft-delivered binary aerial bomb produced a serviceable unitary artillery shell from the existing arsenal shall be rendered permanently useless for military purposes.

Pursuant to Section 1411 of the Department of Defense Authorization Act, 1986, Public Law 99-145, as amended, I hereby certify with respect to the 155mm Binary Chemical Artillery Projectile that:

(1) final assembly of such complete munitions is necessitated by national security interests of the United States and the interests of other NATO member nations;

(2) performance specifications and handling and storage safety specifications established by the Department of Defense with respect to such munitions will be met or exceeded;

(3) applicable Federal safety requirements will be met or exceeded in the handling, storage and other use of such munitions; and

(4) the plan of the Secretary of Defense for destruction of existing United States chemical warfare stocks developed pursuant to section 1412 of the Department of Defense Authorization Act, 1986, Public Law 99-145, is ready to be implemented.

I note with regard to the fourth numbered paragraph above that the Plan, submitted to Congress on March 15, 1986, recognized and included the ongoing actions to comply with the National Environmental Policy Act as an essential element of the decision making process. Therefore, the initial steps for implementation of the plan for destruction of the existing United States chemical warfare stocks have already been taken with the filing of the draft programmatic environmental impact statement in July, 1986.

- 2 -

I am pleased to make this certification on a program so vital to our national security. We continue to seek a global, effectively verifiable ban on chemical weapons. Until we achieve that goal, however, it is essential that we maintain a safe, modern chemical weapon stockpile to deter use of chemicals by our potential adversaries. I will be counting on your continued support for this program.

The Honorable George Bush
President of the Senate
Washington, D. C. 20510



THE SECRETARY OF DEFENSE

WASHINGTON, THE DISTRICT OF COLUMBIA

1 OCT 1987

*Frank*MEMORANDUM FOR ASSISTANT TO THE PRESIDENT FOR NATIONAL
SECURITY AFFAIRSSUBJECT: Presidential Certification on Final Assembly of the
155mm Binary Chemical Projectile

The proposed Presidential certification concerning final assembly of the 155mm Binary Chemical Projectile is attached. All requirements for production and final assembly of the first binary munition have been satisfied. We are prepared to initiate final assembly of the first such munition on completion of the required 60 day period following receipt by the Congress of the President's certification.

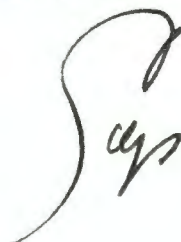
Of the various issues to be certified, only two are considered to be potentially controversial. The first concerns a certification required by PL 98-94 concerning the destruction of at least one unitary artillery projectile for each binary artillery projectile or aircraft delivered binary aerial bomb to be produced. The second concerns whether the plan for destruction of the unitary chemical stockpile is "ready to be implemented."

With regard to the first issue, there is some question as to whether there is a need to submit the certification required by PL 98-94 given the more recent requirement of PL 99-145. Given that Congress did not expressly rescind the requirement, and that we are in a position to make the certification, we believe the best course of action is to certify and thereby reduce the bases for later challenge.

With regard to the second issue, those actions necessary to comply with the National Environmental Policy Act (NEPA) are part of the plan which was submitted to the Congress in March 1986. The filing of the draft programmatic environmental impact statement in July, 1986 is the first of those NEPA compliance actions. Accordingly, we have concluded that the plan developed pursuant to section 1412 of PL 99-145 is not only ready for implementation but that implementation has begun.

This action culminates more than six years of intense legislative debate concerning the decision to modernize our chemical warfare deterrent. The final assembly of these munitions is important not only to the security of our military forces, but also as a further incentive for arms control in this

area and as a symbol of our resolve realistically to address the growing worldwide threat of chemical warfare. It is most important that we proceed as soon as possible.

A handwritten signature in black ink, appearing to be 'Saps' or similar, written in a cursive style.

Attachment
Presidential Certification

DRAFT

To the Congress of the United States:

Pursuant to Section 1233 of the Department of Defense Authorization Act, 1984, Public Law 98-94, I hereby certify with respect to the binary chemical munitions program that, for each 155 millimeter binary artillery shell or aircraft delivered binary aerial bomb produced a serviceable unitary artillery shell from the existing arsenal shall be rendered permanently useless for military purposes.

Pursuant to Section 1411 of the Department of Defense Authorization Act, 1986, Public Law 99-145, as amended, I hereby certify with respect to the 155mm Binary Chemical Artillery Projectile that:

(1) final assembly of such complete munitions is necessitated by national security interests of the United States and the interests of other NATO member nations;

(2) performance specifications and handling and storage safety specifications established by the Department of Defense with respect to such munitions will be met or exceeded;

(3) applicable Federal safety requirements will be met or exceeded in the handling, storage and other use of such munitions; and

(4) the plan of the Secretary of Defense for destruction of existing United States chemical warfare stocks developed pursuant to section 1412 of the Department of Defense Authorization Act, 1986, Public Law 99-145, is ready to be implemented.

I note with regard to the fourth numbered paragraph that the Plan, submitted to the Congress on March 15, 1986, recognized and included the ongoing actions to comply with the National Environmental Policy Act as an essential element of the decision making process. Therefore, the initial steps for implementation of the plan for destruction of the existing United States chemical warfare stocks have already been taken with the filing of the draft programmatic environmental impact statement in July, 1986. I am pleased to make this certification on a program so vital to our national defense. We continue to seek a comprehensive and verifiable ban on all chemical weapons. Until we achieve that goal, we must maintain a safe and viable chemical weapon stockpile to deter use of chemicals by our potential adversaries. I appreciate your continued support for this program.

RONALD REAGAN

The White House, October __ , 1987.

DRAFT

155mm Binary Chemical Projectile

o Production of the 155mm Binary Chemical Projectile was authorized by the Congress in the Defense Authorization Act, 1986 (PL 99-145) as amended by the Defense Appropriations Act, 1986 (PL 99-190).

- Provisions restricting use of funds for procurement of components of the 155mm binary projectile were satisfied on July 29, 1986 with submission of the Presidential certification with regard to the NATO Force Goal and consultations on the contingency deployment plan.

- Additional restrictions related to final assembly of complete binary munitions require Presidential certification not earlier than October 1, 1987. Final assembly of complete munitions may begin 60 days after the Congress receives the certification.

o Production of components of the projectile is currently underway at the Louisiana Army Ammunition Plant (LAAP) in Shreveport, Louisiana.

- Current production includes the metal shell body and fuze assembly, over 700 of which have now been produced.

- The alcohol canister (one of the two binary components) is to be supplied by a contractor beginning March 1988. It will be loaded into the projectile at LAAP. The completed projectile body containing the alcohol canister will be placed into storage at the Tooele Army Depot in Utah.

o Filling and closure of the DF canister which contains the organophosphorous bearing binary component constitutes final assembly of the binary projectile. The DF canister will be produced at Pine Bluff Arsenal, Arkansas.

- Fifty-six canisters will be filled over a period of a few days during the low rate final assembly phase of the program which can begin 60 days after receipt by the Congress of the presidential certification on final assembly (not earlier than December 2, 1987). The DF canisters will be separately packaged and placed into storage at Pine Bluff.

- Canisters to be filled with DF during low rate final assembly will be fabricated at Aberdeen Proving Ground, Maryland. Subsequently, DF canisters will be fabricated by a contractor with initial deliveries beginning in March 1988.

- Sufficient DF is currently on hand at Pine Bluff Arsenal to fill the initial low rate final assembly quantity of DF canisters and to support the subsequent low rate initial production of the projectile. Full production quantities of DF

will be produced at Pine Bluff from the precursor DC which will be produced under a commercial contract scheduled to be awarded in October 1987.

- o Low rate initial production of the 155mm Binary Chemical Projectile will begin at Pine Bluff in April 1988 when sufficient quantities of DF canister metal parts have been received from the contractor.

- o Full production of the projectile will begin in January, 1989.

Public Law 99-145
99th Congress

An Act

To authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for the Department of Defense for fiscal year 1986, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize appropriations for fiscal year 1986 for national security programs of the Department of Energy, and for other purposes.

Nov. 8, 1985
[S. 1160]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Department of
Defense
Authorization
Act, 1986.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

(a) **SHORT TITLE.**—This Act may be cited as the "Department of Defense Authorization Act, 1986".

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

Sec. 1. Short title; table of contents.

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

- Sec. 101. Army.
- Sec. 102. Navy and Marine Corps.
- Sec. 103. Air Force.
- Sec. 104. Reserve components.
- Sec. 105. Defense Agencies.
- Sec. 106. NATO cooperative programs.
- Sec. 107. Reductions in authorizations due to savings from lower inflation and prior-year cost savings.
- Sec. 108. Provisions relating to transfers of prior-year funds.
- Sec. 109. Report on reductions and transfers.
- Sec. 110. Improvement in conventional readiness capability.

PART B—ARMY PROGRAM LIMITATIONS

- Sec. 121. Sergeant York Division Air Defense (DIVAD) gun.
- Sec. 122. Bradley Fighting Vehicle.
- Sec. 123. Conditions on procurement of certain combat vehicles.
- Sec. 124. Sale of L119 howitzers overseas.
- Sec. 125. Restrictions on purchase of 5-ton trucks.
- Sec. 126. Other Army programs.

PART C—NAVY PROGRAM LIMITATIONS

- Sec. 131. A6 aircraft rewing program.
- Sec. 132. Limitations on Navy aircraft procurement.

PART D—AIR FORCE PROGRAM LIMITATIONS

- Sec. 141. MX missile program.
- Sec. 142. Competition for Air Force fighter aircraft procurement.
- Sec. 143. Advanced technology bomber.
- Sec. 144. Special operations forces HH-53 helicopters.

PART E—OTHER LIMITATIONS

- Sec. 151. C-12 aircraft.
- Sec. 152. Adequate airlift for special operations forces.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS OF APPROPRIATIONS AND PROGRAM LIMITATIONS

- Sec. 201. Authorization of appropriations.

5—NOV. 8, 1985

PUBLIC LAW 99-145—NOV. 8, 1985

99 STAT. 745

FOR THE DEPARTMENT OF DEFENSE

that the programs and activities could be more effectively and funds for the Department were an annually.

BUDGET PROPOSAL.—The President submitted to the Congress pursuant to the Code, for fiscal year 1986 the Department of Defense and related matters. Thereafter, the President submitted for the Department of Defense for each year.

1986, the Secretary of Defense returned Services and on Appropriations of Representatives a report on the following:

advantages of operating the Department of Defense on a two-year cycle beginning with fiscal

switching to a two-year budget cycle.

advantages (statutory or otherwise) of the Department of Defense on a two-year cycle beginning with fiscal

LATION

INFLATION.—Not later than 180 days after the date of this Act, the Secretary of Defense shall submit a report containing an explanation of the reasons in any fiscal year for a decrease in the amount of the Department of Defense budget system under the report under subsection (a) for a budget system under the Department of Defense for research, development, and production of the Department of Defense account for anticipated increases at the end of the fiscal year necessary by reason of the report shall include in such report for procedures that are submitted under subsection (a) and disadvantages of the Department of Defense with any other comment that the Secretary considers appropriate.

SEC. 1407. REPORT OF UNOBLIGATED BALANCES

(a) REQUIRED REPORTS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives reports containing an estimate of the amount of funds in each appropriation account of the Department of Defense that at the time of the report—

(1) is available for obligation; and

(2) is in excess of the amount needed to carry out the programs for which the funds were appropriated.

(b) MATTERS TO BE INCLUDED.—Each estimate under subsection (a) shall include amounts attributable to—

(1) inflation savings;

(2) foreign currency savings;

(3) excess working capital fund cash; and

(4) all other savings.

(c) UNANTICIPATED INCREASES.—The report shall also identify unanticipated cost increases resulting from adverse economic trends.

(d) SUBMISSION OF REPORT.—The reports shall be submitted to Congress each year with the President's budget for the next fiscal year, with the April Budget Update, and with the Mid-Session Budget Review. However, the first such report shall be submitted not later than 80 days after the date of the enactment of this Act.

SEC. 1408. AUTHORIZATION OF APPROPRIATIONS FOR PURCHASE OF FOREIGN CURRENCIES

There is hereby authorized to be appropriated for fiscal year 1986 the amount of \$2,100,000 for the purchase of foreign currencies from the Treasury Department to pay expenses incurred in carrying out programs of the Department of Defense.

PART B—CHEMICAL WEAPONS

SEC. 1411. CONDITIONS ON SPENDING FUNDS FOR BINARY CHEMICAL MUNITIONS

(a) LIMITATION ON FY86 FUNDS.—Funds appropriated pursuant to authorizations of appropriations in title I may not be used—

(1) for procurement or assembly of binary chemical munitions (or components of such munitions); or

(2) for establishment of production facilities necessary for procurement or assembly of binary chemical munitions (or components of such munitions),

except in accordance with subsections (b) and (c).

(b) NATO CONSULTATION.—Subject to subsection (c), funds referred to in subsection (a) may be used for procurement or assembly of binary chemical munitions or for the establishment of production facilities necessary for the procurement or assembly of binary chemical munitions (or components of such munitions) if the President certifies to Congress that the United States—

(1) has developed a plan under which United States binary chemical munitions can be deployed under appropriate contingency plans to deter chemical weapons attacks against the United States and its allies; and

(2) has consulted with other member nations of the North Atlantic Treaty Organization (NATO) on that plan.

A plan under clause (1) shall be developed in cooperation with the Supreme Allied Commander, Europe.

done last year

(c) **CONDITIONS FOR FINAL ASSEMBLY.**—Funds referred to in subsection (a) may not be used for the final assembly of complete binary chemical munitions before October 1, 1987, and may only be used for such purpose on or after that date if—

(1) a mutually verifiable international agreement concerning binary and other similar chemical munitions has not been entered into by the United States by that date;

(2) the President, after that date, transmits to Congress a certification that—

(A) final assembly of such complete munitions is necessitated by national security interests of the United States and the interests of other NATO member nations;

(B) performance specifications and handling and storage safety specifications established by the Department of Defense with respect to such munitions will be met or exceeded;

(C) applicable Federal safety requirements will be met or exceeded in the handling, storage, and other use of such munitions; and

(D) the plan of the Secretary of Defense for destruction of existing United States chemical warfare stocks developed pursuant to section 1412 (which shall, if not sooner transmitted to Congress, accompany such certification) is ready to be implemented;

(3) final assembly is carried out only after the end of the 60-day period beginning on the date such certification is received by the Congress;

(4) the plan of the Secretary of Defense for land-based storage of such munitions within the United States during peacetime provides that the two components that constitute a binary chemical munition are to be stored in separate States; and

(5) the plan of the Secretary of Defense for the transportation of such munitions within the United States during peacetime provides that the two components that constitute a binary munition are transported separately.

(d) **SINCE OF CONCERN.**—It is the sense of Congress that existing unitary chemical munitions currently stored in the United States and in European member nations of NATO should be replaced by modern, safer binary chemical munitions.

(e) **REPORT.**—Not later than October 1, 1986, the President shall submit to Congress a report describing the results of consultations among NATO member nations concerning the organization's chemical deterrent posture. The report shall include descriptions of any consultations concerning—

(1) efforts to provide key civilian workers at military support facilities in Europe—

(A) with personal and collective equipment to protect against the use of chemical munitions; and

(B) with the training required for the use of such equipment;

(2) efforts to upgrade the chemical reconnaissance, decontamination, and protective capabilities of the military forces of each NATO member nation to a level adequate to meet the chemical threat identified in NATO intelligence estimates;

(3) efforts to initiate a NATO-wide study of measures required to protect ports, airfields, logistics centers, and command and

control facilities in European chemical attack; and

(4) efforts to initiate a N efficient sharing among NA ities with regard to deterring Europe.

SEC. 1412. DESTRUCTION OF EXISTING AGENTS AND MUNITIONS

(a) **IN GENERAL.**—(1) Notwithstanding the Secretary of Defense (herein the "Secretary") shall, in accordance with this section, carry out the destruction of lethal chemical agents and munitions pursuant to the enactment of this Act.

(2) Such destruction shall be carried out in accordance with the acquisition of binary chemical weapons.

(b) **DATE FOR COMPLETION.**—(1) (2) and (3), the destruction of such munitions shall be completed by September 30, 1994.

(2) If a treaty banning the production of such munitions is ratified by the United States, the date for the destruction of the United States munitions shall be the date established by the treaty.

(3)(A) In the event of a declared national emergency by the President, the Secretary of Defense may determine a delay in the acquisition of an agent or weapon to meet the requirements of the Joint Chiefs of Staff as of the date of the declaration, but not more than 10 percent of the stockpile of such agents or weapons.

(B) The Secretary shall transmit to Congress any deferral made under subsection (a) and the date on which the determination is made, whichever is earlier.

(c) **ENVIRONMENTAL PROTECTION.**—The Secretary shall carry out the requirement of this section to provide for—

(A) maximum protection of the health of the public, and the personnel with access to the lethal chemical agents; and

(B) adequate and safe facilities for the destruction of lethal chemical agents.

(2) Facilities constructed to carry out this section for any purpose other than the destruction of agents and munitions, and when such facilities shall be in accordance with applicable law.

(d) **PLAN.**—(1) The Secretary shall submit to Congress a plan to carry out this section.

(2) In developing such plan, the Secretary of Health and Human Services and the Environmental Protection Agency shall be consulted.

(3) The Secretary shall transmit the plan to Congress not later than March 1, 1986.

Defense and national security.

Post, p. 747.

-NOV. 8, 1985

-Funds referred to in subsection (a) of section 1521 of the National Defense Authorization Act for Fiscal Year 1987, and may only be used for

national agreement concerning chemical munitions has not been reached by that date;

the President transmits to Congress a

complete munitions is necessary in the interests of the United States and its member nations;

the acquisition, handling and storage of such munitions by the Department of Defense will be met or

requirements will be met or exceeded for the use of such

of Defense for destruction of chemical warfare stocks developed which shall, if not sooner, accompany such certification) is

only after the end of the 60-day period in which certification is received

Defense for land-based storage of chemical weapons in the United States during peacetime; and (2) that constitute a binary chemical weapon and are stored in separate States; and (3) for the transportation of chemical weapons in the United States during peacetime; and (4) that constitute a binary chemical weapon and are stored in the United States during peacetime.

of Congress that existing chemical weapons in the United States should be replaced by

1986, the President shall submit the results of consultations with the organization's chemical weapons experts, which shall include descriptions of any

workers at military support

ive equipment to protect chemical weapons; and (2) for the use of such

al reconnaissance, decontamination of the military forces of the United States to meet the intelligence estimates; (2) study of measures required for the protection of chemical weapons, and command and

PUBLIC LAW 99-145—NOV. 8, 1985

99 STAT. 747

control facilities in European member nations of NATO against chemical attack; and

(4) efforts to initiate a NATO-wide study of equitable and efficient sharing among NATO member nations of responsibilities with regard to deterring the use of chemical munitions in Europe.

SEC. 1412. DESTRUCTION OF EXISTING STOCKPILE OF LETHAL CHEMICAL AGENTS AND MUNITIONS 50 USC 1521.

(a) IN GENERAL.—(1) Notwithstanding any other provision of law, the Secretary of Defense (hereinafter in this section referred to as the "Secretary") shall, in accordance with the provisions of this section, carry out the destruction of the United States' stockpile of lethal chemical agents and munitions that exists on the date of the enactment of this Act.

(2) Such destruction shall be carried out in conjunction with the acquisition of binary chemical weapons for use by the Armed Forces.

(b) DATE FOR COMPLETION.—(1) Except as provided by paragraphs (2) and (3), the destruction of such stockpile shall be completed by September 30, 1994.

(2) If a treaty banning the possession of chemical agents and munitions is ratified by the United States, the date for completing the destruction of the United States' stockpile of such agents and munitions shall be the date established by such treaty.

(3)(A) In the event of a declaration of war by the Congress or of a national emergency by the President or the Congress or if the Secretary of Defense determines that there has been a significant delay in the acquisition of an adequate number of binary chemical weapons to meet the requirements of the Armed Forces (as defined by the Joint Chiefs of Staff as of September 30, 1985), the Secretary may defer, beyond September 30, 1994, the destruction of not more than 10 percent of the stockpile described in subsection (a)(1).

(B) The Secretary shall transmit written notice to the Congress of any deferral made under subparagraph (A) within 30 days after the date on which the determination to defer is made or by August 31, 1994, whichever is earlier.

(c) ENVIRONMENTAL PROTECTION AND USE OF FACILITIES.—(1) In carrying out the requirement of subsection (a)(1), the Secretary shall provide for—

(A) maximum protection for the environment, the general public, and the personnel who are involved in the destruction of the lethal chemical agents and munitions referred to in subsection (a); and

(B) adequate and safe facilities designed solely for the destruction of lethal chemical agents and munitions.

(2) Facilities constructed to carry out this section may not be used for any purpose other than the destruction of lethal chemical weapons and munitions, and when no longer needed to carry out this section, such facilities shall be cleaned, dismantled, and disposed of in accordance with applicable laws and regulations.

(d) PLAN.—(1) The Secretary shall develop a comprehensive plan to carry out this section.

(2) In developing such plan, the Secretary shall consult with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency.

(3) The Secretary shall transmit a copy of such plan to the Congress not later than March 15, 1986.

(4) Such plan shall provide—

(A) an evaluation of the comparison of onsite destruction, regional destruction centers, and a national destruction site both inside and outside of the United States;

(B) for technological advances in techniques used to destroy chemical munitions;

(C) for the maintenance of a permanent, written record of the destruction of lethal chemical agents and munitions carried out under this section; and

(D) a description of—

(i) the methods and facilities to be used in the destruction of agents and munitions under this section;

(ii) the schedule for carrying out this section; and

(iii) the management organization established under subsection (e).

(e) **MANAGEMENT ORGANIZATION.**—(1) In carrying out this section the Secretary shall provide for the establishment, not later than May 1, 1986, of a management organization within the Department of the Army.

(2) Such organization shall be responsible for management of the destruction of agents and munitions under this section.

(3) The Secretary shall designate a general officer as the director of the management organization established under paragraph (1). Such officer shall have—

(A) experience in the acquisition, storage, and destruction of chemical agents and munitions;

(B) training in chemical warfare defense operations; and

(C) outstanding qualifications regarding safety in handling chemical agents and munitions.

(f) **IDENTIFICATION OF FUNDS.**—Funds for carrying out this section shall be set forth in the budget of the Department of Defense for any fiscal year as a separate account. Such funds shall not be included in the budget accounts for any military department. Funds for military construction projects necessary to carry out this section may be set out in the annual military construction budget separately from other funds for such project.

(g) **ANNUAL REPORT.**—(1) Except as provided by paragraph (4), the Secretary shall transmit, by December 15 of each year, a report to the Congress on the activities carried out under this section during the fiscal year ending on September 30 of the calendar year in which the report is to be made.

(2) The first such report shall be transmitted by December 15, 1985, and shall contain—

(A) an accounting of the United States' stockpile of lethal chemical agents and munitions on the date of the enactment of this Act; and

(B) a schedule of the activities planned to be carried out under this section during fiscal year 1986.

(3) Each report other than the first one shall contain—

(A) a site-by-site description of the construction, equipment, operation, and dismantling of facilities (during the fiscal year for which the report is made) used to carry out the destruction of agents and munitions under this section, including any accidents or other unplanned occurrences associated with such construction and operation; and

(B) an accounting (year) for activities rate accounting for

(i) the constr for the destruct

(ii) the operat

(iii) the dism

(iv) research

(v) program

(4) The Secretary shall tion not later than 120 under this section.

(h) **PROHIBITION ON AC AND MUNITIONS.**—(1) Ex of the Federal Governm this Act, develop or ac other than binary chemi

(2)(A) The Secretary o or munition at any time

(B) Chemical agents a development, test, and e quantities needed for quantities.

(i) **REAFFIRMATION OF CHEMICAL AGENTS AND M** the President should pu States as set out in the States ratified with reser

(j) **DEFINITIONS.**—For p

(1) The term "che or munition that, lethal or other dam such term does not cides, smoke, and oth

(2) The term "leth chemical agent or through its chemi concentrations.

(3) The term "de munitions or agents

(A) the dem incineration or

(B) the disma agents so as to harmless to hu

(k) **EFFECTIVE DATE.**— effect on October 1, 1985

SEC. 1412. REPORT CONC AGENTS

The Secretary of Def enactment of this Act, Armed Services of the S ing the following mat undiluted chemical war

(1) The criteria s testing.

(B) an accounting of all funds expended (during such fiscal year) for activities carried out under this section, with a separate accounting for amounts expended for—

- (i) the construction of and equipment for facilities used for the destruction of agents and munitions;
- (ii) the operation of such facilities;
- (iii) the dismantling or other closure of such facilities;
- (iv) research and development; and
- (v) program management.

Research and
development.

(4) The Secretary shall transmit the final report under this subsection not later than 120 days following the completion of activities under this section.

(h) **PROHIBITION ON ACQUIRING CERTAIN LETHAL CHEMICAL AGENTS AND MUNITIONS.**—(1) Except as provided in paragraph (2), no agency of the Federal Government may, after the date of the enactment of this Act, develop or acquire lethal chemical agents or munitions other than binary chemical weapons.

(2)(A) The Secretary of Defense may acquire any chemical agent or munition at any time for purposes of intelligence analysis.

(B) Chemical agents and munitions may be acquired for research, development, test, and evaluation purposes at any time, but only in quantities needed for such purposes and not in production quantities.

Research and
development.

(i) **REAFFIRMATION OF UNITED STATES POSITION ON FIRST USE OF CHEMICAL AGENTS AND MUNITIONS.**—It is the sense of Congress that the President should publicly reaffirm the position of the United States as set out in the Geneva Protocol of 1925, which the United States ratified with reservations in 1975.

(j) **DEFINITIONS.**—For purposes of this section:

(1) The term "chemical agent and munition" means an agent or munition that, through its chemical properties, produces lethal or other damaging effects on human beings, except that such term does not include riot control agents, chemical herbicides, smoke and other obscuration materials.

(2) The term "lethal chemical agent and munition" means a chemical agent or munition that is designed to cause death, through its chemical properties, to human beings in field concentrations.

(3) The term "destruction" means, with respect to chemical munitions or agents—

(A) the demolition of such munitions or agents by incineration or by any other means; or

(B) the dismantling or other disposal of such munitions or agents so as to make them useless for military purposes and harmless to human beings under normal circumstances.

(k) **EFFECTIVE DATE.**—The provisions of this section shall take effect on October 1, 1985.

SEC. 1412. REPORT CONCERNING THE TESTING OF CHEMICAL WARFARE AGENTS

The Secretary of Defense shall, within 90 days after the date of enactment of this Act, transmit a report to the Committees on Armed Services of the Senate and House of Representatives describing the following matters concerning the testing of diluted or undiluted chemical warfare agents:

- (1) The criteria and process used for selecting sites for such testing.

warhead ICBM capable of mobile deployment. Key elements of such a program which should be pursued immediately include missile design, guidance accuracy, hardened mobile transporter design, mobile basing and survivable Communication, Command and Control (C³). Program emphasis should be consistent with past top national priorities such as Polaris, Minuteman, and Apollo, and program management structure should also reflect such priority. The Department of Defense should set forth funding and production schedules consistent with the earliest possible Initial Operational Capability (IOC), at or prior to 1992, in its submission to Congress to authorize appropriations for fiscal year 1985.

LIMITATION ON PROCUREMENT OF BINARY CHEMICAL WEAPONS:

Sec. 1233. (a) Notwithstanding any other provision of law, no funds may be obligated or expended after the date of the enactment of this Act for the production of binary chemical weapons unless the President certifies to the Congress that for each 155-millimeter binary artillery shell or aircraft-delivered binary aerial bomb produced a serviceable unitary artillery shell from the existing arsenal shall be rendered permanently useless for military purposes.

50 USC 1519a.

(b)(1) Funds appropriated pursuant to the authorization of appropriations for the Army in section 101 of this Act may be used for the establishment of a production base for binary chemical munitions and for the procurement of components for 155-millimeter binary chemical artillery projectiles, but such funds may not be used for the actual production of binary chemical munitions before October 1, 1985.

Ante, p. 618.

(2) Notwithstanding the provisions of paragraph (1), before the production of binary chemical munitions may begin after September 30, 1985, the President must certify to Congress in writing that, in light of circumstances prevailing at the time the certification is made, the production of such munitions is essential to the national interest.

Written certifications to Congress.

(3) For purposes of this subsection, "production of binary chemical munitions" means the final assembly of weapon components and the filling or loading of components with binary chemicals.

"Production of binary chemical munitions."

PROHIBITION AGAINST USING FUNDS APPROPRIATED FOR THE ADVANCED TECHNOLOGY BOMBER PROGRAM FOR ANY OTHER PURPOSE

Sec. 1234. None of the funds appropriated pursuant to an authorization of appropriations in this Act to carry out the Advanced Technology Bomber program may be used for any other purpose.

ESTABLISHING CRITERIA GOVERNING THE TEST OF ANTISATELLITE WARHEADS

Sec. 1235. Notwithstanding any other provision of law, none of the funds appropriated pursuant to an authorization contained in this or any other Act may be obligated or expended to test any explosive or inert antisatellite warheads against objects in space unless the President determines and certifies to the Congress—

Funding restriction.

(1) that the United States is endeavoring, in good faith, to negotiate with the Soviet Union a mutual and verifiable ban on antisatellite weapons; and