We will have the ability to decide any information that we will exchange with other countries. That has been a confusion about this treaty, Mr. President, that needs to be cleared up.

When all the debate is concluded at the end of the day today, I believe it serves our national interest to go ahead and ratify the treaty. I believe it will contribute to a more peaceful world. Like all treaties, it lacks perfection. But the acid test is: Will this generation of Americans and future generations be less likely to confront chemical weapons on the battlefield or in a civilian context if this treaty is ratified? In my view, it is clear that they will be less likely to confront chemical weapons if we go ahead today. I hope very much my colleagues will join in supporting the treaty.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The time of the Senator has expired.

Will the Senator withdraw the quorum request?

Mr. BINGAMAN. I withdraw.

RECESS UNTIL 10:30 A.M. FOR A CLOSED SESSION IN THE OLD SENATE CHAMBER

The PRESIDING OFFICER. Under the previous order, the Senate will recess and reconvene at the hour of 10:30 a.m., in the Old Senate Chamber.

Thereupon, the Senate, at 10:22 a.m., recessed under the previous order and reconvened in closed session at 10:32 a.m., in the Old Senate Chamber; thereupon, at 12:50 p.m., the Senate recessed the closed session, and the Senate reassembled in open session, under the previous order, at 1 p.m., when called to order by the Presiding Officer (Mr. Enzi).

CHEMICAL WEAPONS CONVENTION

The Senate continued with the consideration of the convention.

The PRESIDING OFFICER. The pending business before the Senate is ratification of the Chemical Weapons Convention.

The Senator from North Carolina has 1 hour and 20 minutes. The Senator from Delaware has 46 minutes.

Mr. HELMS. Mr. President, I yield 7 minutes to my friend from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I thank the Chair.

May I ask my good friend if he didn’t wish that the time be charged to the Senator from Delaware?

The PRESIDING OFFICER. The time will be charged to the Senator from Delaware.

Mr. MOYNIHAN. I thank the Chair. I thank my dear friend, theerman.

Mr. President, I rise in support of the resolution of ratification. I will take just a moment of the Senate’s time to put this matter in a historical context.

Since its development by 19th century chemists, poison gas—as it was known—has been seen as a singular evil giving rise to a singular cause for international sanctions.

In May 1899, Czar Nicholas II of Russia convened a peace conference at The Hague in Holland. Twenty-six countries attended and agreed upon three conventions and three declarations concerning the laws of war. Declaration II, On Asphyxiating or Deleterious Gases stated:

The Contracting Parties agree to abstain from the use of projectiles the sole object of which is to diffuse asphyxiating or deleterious gases.

Article 23 of the Annex to the Convention added:

In addition to the prohibitions provided by special Conventions, it is especially forbidden:

(a) To employ poison or poisoned weapons

***

Our own Theodore Roosevelt called for a second peace conference which convened in 1907. This time, 45 countries were in attendance at The Hague, and reiterated the Declaration on Asphyxiating Gases and the article 23 prohibition on poisoned weapons.

The Hague Conventions notwithstanding, poison gas was used in World War I. Of all the events of the First World War, a war from which this century has not yet fully recovered, none so horrified mankind as gas warfare. No resolve ever was as firm as that of the nation that led the world, after that war, to prevent gas warfare from ever happening again.

Declaring something to be violation of international law does not solve a problem, but it does provide those of us who adhere to laws mechanisms by which to address violations of them. In June 1925, the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare was signed in Geneva. This reaffirmed the Hague prohibition and added biological weapons to the declaration.

In the Second World War that followed, such was the power of that commitment that gas was not used in Europe. It was expected, but it did not happen.

Then came the atom bomb and a new, even more important development in warfare. In time it, too, would be the subject of international conventions.

As part of the peace settlement that followed World War II, President Roosevelt, with the British, Chinese, and French, set up the United Nations. In 1957, within the U.N. system, the International Atomic Energy Agency was established. The new agency fielded an extraordinary new device, international inspectors, who began inspecting weapons facilities around the world to ensure compliance. This was enhanced by the Nuclear Non-Proliferation Treaty (NPT), which came into force in 1970, allowing inspectors to monitor declared nuclear sites. This was an unheard of compromise of traditional sovereignty. It has not worked perfectly. The number of nuclear powers, or proto-nuclear powers, has grown somewhat. But only somewhat: around 10 in a world with some 185 members of the United Nations. And never since 1945 has a single atomic weapon been used in warfare.

The Chemical Weapons Convention incorporates the advances in international law and cooperation of which I have spoken; it extends them. Its inspections can be more effective than the IAEA because of the ability to conduct challenge inspections when violations of the CWC are suspected.

If the Senate should fail—and it will not fail—to adopt the resolution of ratification, it would be the first rejection of such a treaty since the Senate in 1919 rejected the Treaty of Versailles, with its provision for the establishment of the League of Nations. It would be only the 18th treaty rejected by the Senate in the history of the Republic.

Our beloved former colleague, Senator Bob Dole, has given his support to the CWC and said it is our duty. The President pleads.

Here I would note a distinction. In 1919, Woodrow Wilson could have had the Versailles Treaty, we could have had the League of Nations. Only he who had been willing to make a modicum of concessions to then-chairman of the Foreign Relations Committee and majority leader, Henry Cabot Lodge of Massachusetts. Wilson was too stubborn; in truth, and it pains an old Wilsonian to say so, too blind. Nothing such can be said of President Clinton.

In a month of negotiations with the current chairman of the Foreign Relations Committee and the current Republican leader, the administration has reached an agreement on 28 of 33 conditions. Only five proved unacceptable. And, indeed, sir, they are. The President could not in turn ratify a treaty with those conditions.

Again to draw a parallel with 1919. During consideration of the Treaty of Versailles, the Senate was divided into three primary camps: those who supported the treaty; those who opposed the treaty, no matter what shape or form it might take—known as “pro-abbrevicators” or “bitter-enders”—and those who wanted some changes to the treaty, most importantly led by Senator Lodge.

There are some modern day irreconcilables who oppose this treaty for the same reason that Czar Nicholas II included in the international law: viewing it as an assertion of what nice people do. Such a view reduces a magisterial concept that there will be enforced standards to a form of wishful thinking. A position which is not a vehicle to any effort. The Senate I would appeal to those Republicans who might compare themselves with Senator Lodge. Unlike 1919, this President has heard your concerns and

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Mr. WELLS. The President, the Chemical Weapons Convention goes into force April 29 with or without U.S. participation. This, after more than 100 years of international efforts to ban chemical weapons, including the Hague Convention of 1899 and the Geneva Protocol of 1925 which placed restrictions on the use of chemical weapons. The history of chemical weapons use is a long one—from 1915 with the German use of chlorine gas in Belgium during World War I, to the Iraqi use of poison gas to kill an estimated 4,000 people in the Kurdish village of Halabja in 1988, and the very recent threat of chemical weapons use in the Persian Gulf war.

These chemical weapons are dangerous and, if not ratified, but also accidental use. In Minnesota, I’ve listened to many Gulf war veterans who’ve told me about their experiences during the conflict. Much is still unknown about chemical weapons use in the Gulf and there is great concern throughout the Minnesota veterans community. I’ve seen the tragic effects of this when I’ve met with Gulf war veterans who went to the Gulf in 1990, served and returned ill after they returned. While many are uncertain about the causes of their illnesses, they suspect that exposure to toxic chemical agents was a factor.

Mr. President, I want to tell my colleagues about a story I recently heard concerning veterans who were part of the 474th Ambulance Company who may have been exposed to toxic chemicals. After the war, a couple of company members went exploring the area nearby and noticed a spill on the floor of a warehouse. There’s no way of knowing now exactly what the substance was, but they are concerned about possible exposure to a nerve agent. They were alarmed because even this kind of low-level exposure can be a serious threat to safety and health. The plea from the Minnesota man who told this story is, “Please! Get everyone to stop using this junk!” Well, that is exactly what we are trying to do, and ratifying the CWC is a vital step in that direction. If we don’t sign up, America’s soldiers—and in deed, all Americans—will be the worse for it.

Another Minnesotan who was a nuclear-bomber warfare specialist during the war talked about the panic and incorrect use of protective equipment that occurred when there were scud alerts accompanied by CBW alerts. There were soldiers who just couldn’t handle the threat of possible chemical attacks. And why should we be surprised? The use of chemical weapons is inhuman and even the perceived threat has to be psychologically damaging. These stories just strengthen my resolve to do all I can to push for ratification of this treaty.

Mr. President, we face a decision between taking a lead role in this effort or standing on the sidelines—this decision should not be difficult for the United States which historically has taken the lead in arms control, seeking agreements that are in the national interest, verifiable, and contribute to world peace. I repeat in the national interest, verifiable, and contribute to world peace. And there is no question in my mind that the CWC fully meets these standards.

To me, it is a great mystery why this treaty is not already ratified. After all, Congress directed in 1985 that all U.S. chemical munitions be destroyed by 1993—since amended to 2004. Subsequently in 1993, the United States became one of the original signatories of the CWC, now awaiting ratification by this body. It would seem that there’s nothing so dramatic as waiting until after the fact to ratify this treaty, an obvious and sensible decision. This international treaty takes a major step forward in the elimination of the scourge of chemical weapons. As the world’s only superpower and leader in the fight for world peace, we must be out front on this convention.

This treaty itself has a very interesting and solid bipartisan history as well as strong popular support, and I am puzzled as to why some of my colleagues want to reject a treaty for which we are largely responsible. The CWC was conceived during the Reagan administration, crafted and signed during the Bush administration and further negotiated during the Clinton administration. Former President Bush has continued to proclaim strong support for ratification. Its bipartisan credentials are thus impeccable. Legislators and national security experts from both parties firmly support it. Former Secretary of State James Baker argues that it is outrageous to suggest that either Presidents Bush or Reagan would negotiate a treaty that would harm national security. President Clinton sees the accord as building on the treaty that his nuclear arsenal negotiations established.

By at least restricting the manufacture, sale, and possession of toxic chemicals capable of being used as weapons, the United States makes it more difficult for rogue nations or terrorist organizations to obtain the raw material for weapons. Ultimately, we then better protect our soldiers and civilians. We should lead the world away from these graveyard gases, and not pretend they are essential to a solid defense. Do we plan to use chemical weapons? No. Then do we lack the courage to lead? I certainly hope not.

Mr. President, according to Secretary of State Madeleine Albright, the United States is the only nation with the power, experience, influence, and respect to forge a strong global consensus against the spread of weapons of mass destruction.

There is also support for this treaty from the armed services. I have the unique perspective of serving on both the Foreign Relations Committee and the Committee on Veterans’ Affairs. I know that many veterans organizations support this treaty—VFW, VVA, Reserve Officers Association of U.S., AMVETS, Jewish War Vets to name a few. What better testimony to its value? The treaty will reduce world stockpiles of weapons and will hope-
were the victims of Saddam's chemical attacks—why there are opponents. Ask Generals Schwartzkopf and Powell why there are opponents. According to General Powell, this treaty serves our national interest—to quote his comments at last week's Veterans' Affairs Committee hearing: "For us to reject that treaty now because there are rogue nations outside the treaty is the equivalent of saying we shouldn't have joined NATO because Russia wasn't a part of NATO." I am under the impression they will still be rogue nations. Ask the State Department, the intelligence community, the chemical manufacturers who stand to lose as much as $600 million in sales, why there are opponents to this treaty. And ask our own Gulf war veterans who lived with the fear of chemical attack and may now be suffering the effects of exposure to chemicals why there are opponents. They and I will never understand it.

Mr. President, ratification of the Chemical Weapons Convention is crucial to all nonproliferation efforts. If America's message to the world is that the United States is not deeply concerned about the production of weapons of mass destruction, then we will encourage rogue states to either continue clandestine projects or to begin producing these weapons that could imperil U.S. troops in future conflicts. Lack of U.S. resolve on the CWC and the unilateral nature of U.S. control treaties would make it easier for rogue states in two ways: they could more easily acquire chemical weapons materials and more effectively hide their production programs. How can we best protect the future of our children, our soldiers, our trade, our country's position in the world? By ratifying this treaty.

I'm deeply puzzled as to why, when at long last the Senate is on the verge of giving its advice and consent to CWC ratification, we are being asked to reconsider treaty-killer conditions. Again, I remind my colleagues, this treaty has been more than 15 years in the making with two Republican Presidents and one Democratic President involved in negotiating and crafting the final product. It is the result of years of bipartisan efforts. The CWC has been strongly endorsed by former Secretary of State James Baker and former National Security Adviser Brent Scowcroft—both of whom are Republican Presidents. It also enjoys the support of our top commanders during the Persian Gulf war, including General Schwarzkopf, who clearly recognize that it is in our national interest to ratify the treaty.

While I do not question the motives and integrity of my colleagues who support these four killer conditions, it is clear that they are not a result of insufficient Senate scrutiny and debate. In fact, the CWC has been before the Senate for more than 2 years. And when it was submitted by President Clinton. During the past 3½ years, the Senate has held 17 hearings on the treaty and the administration has provided the Senate with more than 1,500 pages of information on the CWC, including over 300 pages of testimony and over 400 pages of answers to questions for the record. It is important to recall that in April 1996 the Senate Committee of Foreign Relations passed this treaty out of committee by a strong bipartisan majority, 13 to 5. Why then, only 1 year later, are we confronting four conditions, any of which will prevent us from ratifying the treaty by April 29 when it will automatically go into effect, and a fifth condition that is unacceptable and would undermine the treaty?

Mr. President, I hope that all of my colleagues realize that the United States will incur serious costs if we don't submit instruments of ratification by April 29. Unless we join the convention now, the United States will be barred from having a seat on the executive council, the key decision-making body of the convention, for at least a year and, perhaps, longer. We would thus be precluded from influencing vital decisions to be made by the executive council regarding the detailed procedures that will be followed under the Convention to avoid sanctions against U.S. companies—the requirement that they obtain end-user certificates to export certain chemicals—will commence on April 29 if we are not a convention party. If we still haven't ratified by April 29, the Senate would be subject to a ban on trade in certain chemicals. In addition, U.S. citizens won't be hired as officials or inspectors by the body that will implement the convention until the United States becomes a party to the CWC. And, even more important than these costs to the United States, is the fact that failure to ratify the treaty, which was produced because of U.S. leadership, will have a negative impact on American leadership around the world.

While I understand why we have come to such a pass, it is crystal clear to me why we have to move to strike all five of these conditions. Mr. President, permit me to briefly summarize each of the five conditions and spell out the key reasons why I'm unalterably opposed to them:

CWC condition No. 29 on Russia precludes the United States from joining the convention until Russia ratifies and satisfies other specified conditions. This is an unacceptable condition. Russia would hold hostage our ability to join the CWC to hardliners in the Russian Duma. As the President put it, "this is precisely backwards [since] the best way to secure Russian ratification is to ratify the treaty ourselves." I couldn't agree more with the President, whose position parallels that of Vil Myrzyanov, a Russian scientist who blew the whistle on the Soviet Union's CW program and strongly backs the Convention. When it was put to my distinguished colleague Senator Lieberman, he said "Senate ratification of the convention is crucial to securing action on the treaty in Moscow." Unless, my colleagues join me in striking this amendment, we'll be permitting Russian hardliners to decide our foreign policy, while dimming prospects that Russia—which has the world's largest stockpile of chemical weapons—will ratify the CWC. How can this be in our national interest?

CWC condition No. 30 on rogue states bars the United States from ratifying the CWC until all states determined to possess offensive chemical weapons programs including North Korea, Libya, Syria, Iran, and Iraq, and other states deemed to be state sponsors of terrorism, have ratified. This is a killer condition likely to prevent the United States from ever joining the CWC. If this condition is not struck we would be using the lowest common denominator as a principle for determining our foreign policy. The United States would be placed in the bizarre and embarrassing position of allowing the world's most recalcitrant regimes to determine when we join the CWC, if ever. As former Secretary of State James Baker has said: "It makes no sense to argue that because a few parties to the Convention the United States should line up with them rather than the rest of the world." Makes no sense at all, which is precisely why I strongly support striking this condition.

CWC condition No. 31 on barring CWC inspectors from a number of countries such as Cuba, Iran, Iraq, and North Korea, from ever entering the United States as part of CWC inspection teams. This is an unacceptable condition that has the potential to seriously hamstring CWC implementation. To begin with, the United States already has the right under the CWC to bar inspectors on an individual basis each year when the CWC proposes its list of inspectors. If this condition is not struck, it is likely to provoke reciprocity, resulting in other nations blackballing all American inspectors. This would have the potential of undermining one of our main objectives in joining the treaty: to ensure American inspectors take the lead in finding violations. In addition, condition No. 31 would bar inspectors from a country like China even if United States national security might be better served by letting them confirm directly that the United States is not violating the CWC, but fails to require rejection of inspectors from other countries who may be known sources of improper handling of confidential data. Because of these serious flaws, I urge my colleagues to join me in voting to strike this condition.

CWC condition No. 32 on North Korea prohibits the United States from joining the CWC until the President certifies that the parties to the convention have agreed to strike article X and amend article XI. This provision is an out-right killer that will prevent the United States from joining the Convention. Clearly the President can't make such a certification prior to April, and likely won't ever be able to do so since the
Convention permits a single State party to veto such amendments. Proponents of condition No. 32 wrongly contend that the Convention requires the United States and other parties to share sensitive technology that will assist such countries as Iran to develop offensive CW capabilities.

In fact, Mr. President, neither article X nor article XI have such requirements. Article X, which focuses mainly on assisting or protecting convention members attacked, or facing attack, by chemical weapons, provides complete flexibility for states to determine what type of assistance to provide and how to provide it. One option would be to provide solely medical antidotes and treatments to the threatened state. This is precisely the option the President has chosen under agreed condition No. 15 which specifies that the United States will give only medical help to such countries as Iran or Cuba under article X. Moreover, beyond that, the President has made clear the United States will be careful in deciding what assistance to provide on a case-by-case basis. In sum, there is no valid justification for scrapping article X.

Opponents of the CWC contend that article XI, which addresses the exchange of scientific and technical information, requires the sharing of technology and will result in the erosion of export controls now imposed by the Australia Group of chemical exporting countries, which includes the United States. While this is plainly not the case, the President under agreed condition No. 7 is committed to obtain assurances from our Australia Group partners that article XI is fully consistent with maintaining export curbs on dangerous chemicals. Condition No. 7 also requires the President to certify that the CWC doesn’t obligate the United States to modify its national export controls, as well as to certify annually that Australia Group is maintaining controls that are equal to, or exceed, current export controls.

Mr. President, one final point regarding the Condition’s proponents concern that articles X and XI will require technology that will assist other countries to develop offensive chemical weapons programs. Exchanges of sensitive technology and information provided under terms of both articles would be legally bound by the fundamental obligation of treaty article I, which obligates parties never to “* * * assist, encourage, or induce, in any, anyone to engage in any activity proscribed by this Convention.” This would ban assisting anyone in acquiring a chemical weapons capability.

I strongly urge my colleagues from both sides of the aisle to join me in voting to strike this condition. CWC condition No. 30 would prohibit the United States from ratifying the CWC until the President can certify high confidence U.S. capabilities to detect within 1 year of a violation, the illicit production or storage of one metric ton of chemical agent. Since this is an unachievable standard for monitoring the treaty, this is a killer condition that would permanently bar U.S. participation in the CWC.

Mr. President, one can deny that some aspects of the CWC will be difficult to verify, nor can anyone affirm that any arms control agreement is 100 percent verifiable. And, as Gen. Edward Rowny, who was special adviser to President Reagan, pointed out in the Washington Post and chemical weapons treaty is inherently more difficult to verify than a strategic arms treaty, under which missiles and bombers can be observed by national technical means. For one thing, chemical weapons can literally be produced in thousands of large and small laboratories around the world. But the bottom line is one made succinctly and clearly by General Rowny: “If we are within the CWC, well-trained and experienced intelligence, can employ an agreed set of procedures, intensive procedures, will have an opportunity to catch violaters. Outside the CWC, no such opportunity will exist.”

I couldn’t agree more. As in many other matters, the perfect is not only unattainable but is also the enemy of the good. I hope than many of my colleagues will see this issue in the same light and will join me in voting to strike condition No. 33.

In conclusion, I want to stress that America has always been a leader in international arms negotiations. America should continue this proud tradition of leading the way. We as a nation have the opportunity to be one of the world’s leading guardians of the peace through the application of this treaty; we can participate in safeguarding our armed forces, our citizens, our children from the horrors of chemical weapons; we can lessen the likelihood of chemical weapons being used again in warfare.

But to make all this possible, we must have the perspicacity and foresight to grasp this fleeting opportunity, this historic moment where we decide to join with other nations to improve the quality of life worldwide and assure a safer, saner world. We have just celebrated Earth Day—and I ask what better way to honor our planet is there than by now ratifying a treaty that will protect and safeguard our people? To quote one of the veterans, Mr. President, I think it has been a long time to go through such an important issue, but I thought I would just draw from some very poignant and personal discussion back in Minnesota that we have had with golf war veterans. To quote one of the veterans, who himself is really struggling with illness which he thinks is based upon some exposure to chemicals during his service in the war, he said, “This is my plea. Please get everyone to stop using this junk.”

I really do think that the more I talk to veterans with their service in the gulf war fresh in their mind, many of whom are ill, many of whom are struggling with illness, who were fine before they served in the war and are not now and want to know what has happened to them, there are two different issues. I have the honor of being on both the Veterans’ Committee and the Senate Foreign Relations Committee, and on the Veterans’ Committee, is to get to the bottom of this and make sure veterans get the care they deserve. But the other is when we have such an important treaty, such a historically important agreement which is in the national interest, which is verifiable and which contributes to world peace and helps us get rid of this junk and is so important not only to our soldiers-to-be but also to children and grandchildren, Mr. President, I do not think there is any more important vote that we can make than one of majority support for the Chemical Weapons Convention.

In my State of Minnesota, I know that people are overwhelmingly for this agreement. People are under no illusion. They do not think it is perfect, but they think it is an enormous step forward for all of humankind, an enormous step forward for people in our country, an enormous step forward for people in other countries as well. Since the United States of America has taken a leadership position in the international community, in the international arena, it would be, I think, nothing short of tragic if we now were on the sidelines. We were involved in the implementation of this agreement, if we were not involved in exerting our leadership in behalf of this agreement.

I urge full support for this agreement, and I really do think I speak for a large, engaged majority in Minnesota.

I thank the Chair.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. If there is no objection, time will be deducted equally.

Mr. BIDEN. Mr. President, I withhold my suggestion of the absence of a quorum. I yield 7 minutes to my friend from North Dakota.

Mr. DORGAN. Mr. President, today the Senate will vote on the Chemical Weapons Convention. President Reagan began the negotiations on this treaty, President Bush signed it. And President Clinton sent it to the Senate for our advice and consent.

We do a lot of things in this Chamber. Some of them are small and rather insignificant. But we also do some very big and important things and make some big and important decisions. The vote this evening on this treaty is a very significant decision for the people of America and also people around the world.

There are some who have opposed virtually all efforts in all cases to limit arms. They vote against all of the arms
control treaties, believing that they are not in our country's best interests. I think they were wrong, and I think they have been proven wrong in a number of areas.

In previous arms control agreements, we have made major sacrifices in reducing the nuclear threat against this country. I held up in this Chamber—in fact, somewhere right near this spot—not too many months ago a large piece of metal that I held up from that missile is metal that comes from the scrapheap because the missile does not exist any longer.

In the missile silo that existed in that hole in the ground in the Ukraine, there is now simply dirt. And in that dirt are planted sunflowers—no missile, no sile—sunflowers.

Now, why are sunflowers planted where a missile was once planted, a missile with a nuclear warhead aimed at the United States of America? Because of an arms control agreement which required that that missile be destroyed. So sunflowers exist where a missile once stood poised, aimed at our country.

Arms control agreements have worked. This particular convention which we will vote to ratify today would eliminate an entire class of weapons of mass destruction.

One of the floor of the Senate today and hold up a vial of sarin gas, and if one should drop that vial of gas on this desk and it would break, those in this room might not be leaving the room; they might not survive. If someone came here with a vial and a gas mask and wore the mask and appropriate protective clothing, then they would suffer no consequences.

My point is, who are the most vulnerable in our world when there is a poison gas or chemical weapon attack? The ordinary citizen, the ordinary citizen is the most vulnerable. There are armies, if forewarned, that can defend themselves against it, but the mass population of citizens in our countries is extraordinarily vulnerable to the most aggressive poison gas and chemical weapons known to mankind.

There are a lot of arguments that have been raised against this convention, but none of them make much sense. Our country has already decided to destroy our stockpile of poison gas and chemical weapons. We have already made that decision. President Reagan made that decision. We are in the process of finishing that job. The question before the Senate is whether we will join in a treaty ratified already by over 70 other countries, whether we will decide to work to eliminate chemical weapons and poison gas from the rest of the world, to decide that if ever American men and women who wear a uniform of our country go abroad or go somewhere to defend our country, they will not be facing an attack by chemical weapons or poison gas.

That is what this debate is about. This is not a small or an insignificant issue. This is an attempt by our country and others to join together to ban an entire class of weapons of mass destruction.

Mr. President, I have spoken several times in this Chamber about the vote that we are to take today. This vote is late. This debate should have taken place long ago, but it did not. We pushed and agitated and pushed and pushed some more to get it to the floor of the Senate because we face a critical end date of April 29.

I commend those who finally decided to join with us and bring this to the floor for a debate, but now as we proceed through several amendments and then final passage, it is important for the future of this country, for my children and the children of the world, that this Senate cast a favorable vote to ratify the treaty that comes from this convention. It will be a better world and a safer world if we do it.

I want to commend those who have worked on this in Republican and Democratic administrations, those whose view of foreign policy is that it is a safer world if we together, jointly, reduce the threats that exist in our world. Yes, the threat from nuclear weapons. We have done that in arms control treaties. Those treaties are not perfect, but we have made huge progress. And now, also, the threat of chemical weapons and poison gas.

I am proud today to cast a vote for a treaty that is very significant, and I hope sufficient numbers of my colleagues will do the same. I hope that the news tomorrow in our country will be that the United States of America has joined 74 other countries in ratifying this critically important treaty for our future.

Mr. President, I yield the floor and I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The time will be divided equally.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Vermont, who has an hour under the agreement.

Mr. LEAHY. Mr. President, I yield myself such time as I may need under the hour reserved to the Senator from Vermont.

Mr. President, today the Senate will exercise its advice and consent authority under article II, section 2, clause 2 of the United States Constitution. We have to decide whether we will advise and consent to the Chemical Weapons Convention that has been the product of negotiations conducted by the Reagan, the Bush and the Clinton administrations. If we advise and consent to it, then President Clinton will be free to ratify the convention. If we do not, of course, he does not have that power to do so.

Last week I did not object to the unanimous-consent agreement by which the Senate is now finally able to consider the Chemical Weapons Convention. I did comment at that time on the manner in which we are proceeding. We have been forced to take the unusual step of discharging this important treaty from the Foreign Relations Committee without the benefit of committee consideration or a committee report. And, what is most extraordinary, is that it is the Republican leadership for the Republican majority that has insisted on this extraordinary procedure.

Last week we were required to discharge the Judiciary Committee from any consideration of S. 495, a bill that was taken up last Thursday with no committee consideration, no committee report, and an absolute minimum of debate. In fact, the Senate was asked to consider a revised, unamendable substitute version of the bill that was not made available to us that same very afternoon. I raised concerns that it might, in fact, serve to weaken criminal laws against terrorism. I dare say at least 90 out of the 100 Senators who voted on S. 495 last week had not read it and probably did not have much idea of what was in it.

I mention this because we have taken a lot of time for recesses this year but we did not come up with a budget on April 15, even though the law requires us to do so. The leadership decided not to bring one before the Senate to vote on. Each one of us had to file our taxes on April 15, or the IRS would have come knocking on the door, but even though the law requires the leadership to bring up a budget bill, none was. I am not suggesting we not bring up the Chemical Weapons Convention now. It should have been brought up last September. But I worry that the Senate is suddenly doing this, launching into issues for other purposes, not a kind of procedures that would enable us to really know what we are talking about. I suggest that we should be looking at the way we have done this.

In 1988 I chaired hearings on the threat of high-tech terrorism. I continue to be concerned about terrorist access to plastique explosives, sophisticated information systems, electronic surveillance equipment, and ever more powerful, dangerous weapons. With the sarin nerve gas attack on the Tokyo subway system 2 years ago, we saw the use of harmful chemicals to commit terrorist acts.

In Judiciary hearings in 1988, 1991 and 1995, we heard testimony on easily acquired, difficult to detect chemical and biological weapons and explosives. On April 17, 1995, the date of the bomb attack in Oklahoma City, we learned how easy it is for somebody, intent on terrorism, to concoct a lethal compound out of materials as easily available as fertilizer.
So, for more than a decade I have raised issues about the threats of nuclear, biological and chemical terrorism. I have worked with Members on both sides of the aisle to minimize those threats. We have cooperated on measures such as the Nuclear Non-Proliferation Act of 1978, the Nonproliferation of Chemical and Biological Weapons Act of 1986, the Nuclear and Chemical Weapons Non-Proliferation Act of 1988, and the Chemical and Biological Weapons Non-Proliferation Act of 1993. For years, I have urged the United States to play a lead role in the development of an international regime that addresses this threat.

In support of this argument the administration has turned to some of the leading national security leaders. Let me quote them. Gen. Brent Scowcroft and former CIA Director John Deutch say:

[U.S. failure to ratify] gives Russia—which has the world's largest stock of chemical weapons—an easy excuse to further delay its own accession to the CWC.

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Former Secretary of State James Baker says:

[S]ome have argued that we should not contribute to the treaty because states like Libya, Iraq and North Korea, which have not signed, are still able to continue their efforts to acquire chemical weapons. This is obviously true. But the convention...will make it more difficult for these states to do so. I would argue that because a few pariah states refuse to join the convention, the United States should line up with them, rather than the rest of the world.

Secretary of Defense William Cohen says:

[T]he CWC will reduce the chemical weapons problem to a few notorious rogues. . . . And last, but certainly not least, Gen. Norman Schwarzkopf has said:

We don't need chemical weapons to fight our future wars. And frankly, by not ratifying that treaty, we align ourselves with nations like Libya and North Korea, and I'd just as soon not be associated with those thugs in that particular battle. I agree with General Schwarzkopf. I do not want to have the United States lumped in with Libya and North Korea on the CWC.

By ratifying the treaty, we and the overwhelming majority of nations stabilize the rules by which the conduct of nation is measured.

Will some nations violate the treaty? Perhaps. But that is no more reason to oppose ratification than it would be to oppose passage of other laws outlawing illegal conduct. We pass laws all the time. Can all this country, and treaties, say that what shall be a crime or a violation of the treaty. We do not withold passing them because somebody might break that law. It is one of the main reasons we do pass a law, to try to deter unacceptable conduct.

And by isolating the rogue nations, we pressure them to refrain from producing or using chemical weapons. When they tire of being branded outlaws, they may even join in ratifying the treaty and complying with it themselves.

The arguments we hear on the floor from some today in opposition to this also apply to the Nuclear Test Ban Treaty. Not all nuclear powers are signatories to that treaty. But the effect of the treaty is a powerful disincentive on any state, signatory or not, from testing nuclear weapons. We know there are some countries today that have nuclear weapons. They have not signed the Nuclear Test Ban Treaty, but because the major countries have, it limits their own scope of activity.

These treaties were the subject of many, many years of negotiations, negotiations that went nowhere until the United States said that it would renounce the use of chemical weapons, and stop nuclear testing. And once the United States said that, then negotiations were pursued vigorously. The treaties were signed within a few years time.

I commend the administration and other proponents of the CWC for arguing so strongly and effectively in favor of ratification. The President has made the case very, very well, and members of his administration have too.

I would say with some irony though, this is precisely the argument that I have been using on antipersonnel landmines. The administration had what the President, the White House staff, the Secretary of Defense, General Schwarzkopf, and former Secretary Baker have said. These arguments apply lock, stock, and barrel to the problem of antipersonnel landmines. What is potentially China to be a part of a treaty banning antipersonnel mines? But that is not going to happen any sooner than Iraq is going to sign the chemical weapons treaty.

Their failure should not be used as an excuse for the United States not to sign a treaty banning antipersonnel mines when 100 other nations, including many that have produced and used landmines or have been devastated by their effects, are ready to sign such a treaty.

When the administration on the one hand says we have to go forward with the Chemical Weapons Convention—and I agree—even though some countries, the worst ones have not yet signed. It is also important to note that the administration then turns around and says we cannot do the same thing with antipersonnel landmines until everybody joins in.

No treaty is universal. In fact some treaties have taken effect with only 20 signatories. But by establishing the international norm, the rogue nations are isolated and pressure builds on them to sign. And that is the only way.

So I ask, Mr. President, why does the administration argue one way on chemical weapons but not follow through on its argument when it comes to antipersonnel landmines? Landmines are just as indiscriminate.

Why, when many more American soldiers and innocent civilians, Americans and others, have been killed and horribly maimed by landmines than by chemical weapons?

The reason, of course, is we pushed for the Chemical Weapons Convention because we have already renounced our own use of chemical weapons, just as we pushed for the Test Ban Treaty because we had renounced our own nuclear tests. But we have not yet renounced our use of antipersonnel landmines.

If we did do so, if the United States were to renounce its use of antipersonnel mines, as so many other nations have done, including many of our NATO allies, I guarantee that the administration would make exactly the same arguments in support of a treaty banning those weapons as it is making in support of the CWC.

They would say that we should not allow India, China, Russia and others to develop an international conduct should be. They would say it makes absolutely no sense that because a few pariah nations refuse to join a landmine ban the United States should line up with them rather than the rest of the world. And they would say that a treaty banning antipersonnel landmines would reduce the landmine problem to a few notorious outlaws and make the world safer for all its people. These are the arguments the administration made on the Chemical Weapons Convention. They are right. They also would be right in making these same arguments in support of a treaty banning antipersonnel landmines.

In fact, Mr. President, in a letter to the New York Times Times, Mr. Baker, the Senior Director for Defense Policy and Arms Control, National Security Council, Mr. Bell wrote:

We will be in a much stronger position to make sure other parties to the Chemical Weapons Convention do the same if we are inside, not outside a treaty.

Mr. President, I ask unanimous consent that that letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:


U.S. WOULD BENEFIT FROM CHEMICAL TREATY

(By Robert G. Bell)

To the Editor:

Re A.M. Rosenthal's "Matter for Character" (column, April 22), on the Chemical Weapons Convention, which the Senate will vote on April 24.

Mr. Rosenthal says that Article 10 of the treaty should be a "deal breaker" because it allegedly would give "terrorist nations' access to defensive technology that would help them evade the defenses of responsible states." Only countries that have joined the Chemical Weapons Convention, renounced chemical weapons and destroyed their stockpiles can request defensive assistance -- and then only if they are threatened with, or under chemical attack. Further, President Clinton has committed to the Senate in a binding condition that the United States will limit assistance to countries, like Iran or Cuba -- should they ratify and comply with the treaty -- to emergency medical supplies.

And we will be in a much stronger position to make sure other parties to the Chemical Weapons Convention do the same if we are inside, not outside a treaty that will compel other nations to do what we decided to do years ago: get rid of chemical weapons.

Mr. LEAHY. I agree with Mr. Bell, and I know he worked tirelessly on the CWC. But unfortunately, Mr. Bell, who I am sure is well motivated, has not been willing to apply that same argument to antipersonnel landmines. The Vice President will not apply that argument. Many of the same people who are up here arguing for the Chemical Weapons Convention make one argument for the Chemical Weapons Convention and turn that argument completely around when it comes to antipersonnel landmines even though we face a grave danger, every day, from antipersonnel landmines.

There are 100 million of antipersonnel landmines in the ground in 68 countries, where every few minutes somebody is maimed or killed by them. This is, in many ways, a greater danger
to innocent people than chemical weapons. And I wish the administration, I wish Mr. Bell, I wish the Vice President, I wish others who have not made their same arguments on antipersonnel landmines that they do on chemical weapons. They are effective. They pose a grave threat to our troops. They are the Saturday night specials of civil wars. They kill or maim a man, woman or child every 22 minutes every day of the year. They are aptly called weapons of mass destruction and in landmines. In fact, they are the only weapon where the victim pulls the trigger. They are a weapon where one Cambodian told me, in their country they cleared their landmines with an arm and a leg.

I am proud to support the President, the Vice President, and the rest of the administration on the Chemical Weapons Convention. But I hope that they will take the same position on antipersonnel landmines and say, let us bring together the like-minded states—and there are many who are ready to join in a treaty to ban them, join with them, and then put the pressure on the others like Russia and China so on who will take longer to do it.

If American children were being torn to pieces every day on their way to school, or while playing in their backyards, we would have made it a crime long ago. It is inexcusable to allow the suffering of innocent children who will take longer to do it. And I will also continue to work to convince the administration this is the kind of leadership we need if we are to rid the world of antipersonnel landmines—a scourge every bit as horrifying as chemical weapons, frankly. Mr. President, a scourge that is killing more people today and tomorrow and last year and next year, and on and on, than chemical weapons. We should be leading the world's nations to end the destruction and death caused each day by landmines, not sitting on the sidelines.

I will conclude, Mr. President, by quoting from a letter to President Clinton signed by 35 of this country's most distinguished military officers, including Gen. Norman Schwarzkopf; former Supreme Allied Commander John Galvin; former Chairman, Joint Chiefs of Staff, David J. Jones, and others. They said:

We view such a ban [on antipersonnel landmines] as not only humane, but also militarily responsible.

I quote further:

The rationale for opposing antipersonnel landmines is that they are in a category similar to poison gas...they are insidious in that their indiscriminate effects...cause civilian victims, innocent people.

They said further:

Given the wide range of weaponry available to military forces today, antipersonnel landmines are not essential. Thus, banning them would not undermine the military effectiveness or safety of our forces, nor those of other nations.

Mr. President, every single argument the administration has made in favor of us joining the Chemical Weapons Convention could be made to ask us to go to Ottawa to sign a treaty banning antipersonnel landmines. Because by doing that, we would have 90 percent of the nations of this world pressuring the remaining 10 percent, and that pressure would be enormous.

I reserve the balance—

Mr. President, how much time is remaining to the Senator from Vermont?

Mr. DODD. May I inquire, Mr. President, from the Senator from Vermont, there is a couple of us here who have requested some time. In fact, I know my colleague from California has made a similar request. My colleague from Maryland also has, I ask if our colleague from Vermont would be willing to yield some time off his time. We could make some remarks and maybe expedite this process.

Mr. LEAHY. Mr. President, I intend to be speaking again further on this. I have 27 minutes remaining.

The PRESIDING OFFICER. There is a correction of the time. You actually have 32 minutes left.

Mr. DODD. I needed 10 minutes. Mrs. BOXER. If I could have 7 minutes, I would ask the Senator.

Mr. LEAHY. Mr. President, I reserve the balance of my time.

Mr. DODD. Thank you very much. I appreciate my friend from Connecticut allowing me to proceed. I may not use the full 7 minutes. I will try to be very concise.

Mr. President, I rise in strong support for ratification of the Chemical Weapons Convention. And I base my support on four main facts.

First, the Chemical Weapons Convention is in the national security interests of the United States of America because it reduces the likelihood that American soldiers or civilians will ever face a chemical weapons attack.

We should not lose sight of why this is so important. The effects of chemical weapons are so barbaric, so devastating, that we must do all we can to ensure that they are never used again.

Second, the vast majority of the chemical industries strongly supports the CWC. U.S. chemical companies advised the
Reagan and Bush administrations throughout the original CWC negotiations. Leading U.S. chemical trade associations support the CWC. They know the costs of compliance are small and the risks to industry are great if we fail to ratify.

Fourth, failure to ratify will undermine our credibility, America's credibility, in the world. Imagine a treaty that was brought forward by Ronald Reagan, continued toward the goal line by George Bush, and now a Democrat President following a legacy of those two Republican Presidents, wanting to take this over the goal line, and suddenly we are going back off. It seems to me our credibility is absolutely at stake here. I believe we should not back away from this treaty. We should pass it and defeat the killer amendments.

Mr. President, to those who raise all sorts of flags about this treaty, we should understand this: We could always refuse to sign this treaty. That right to withdraw from the convention on 90 days' notice. This right to withdraw is guaranteed to all signatory nations by article XVI of the CWC.

Mr. President, in closing, I thank the Senate of Connecticut for his generosity, and my friend from Connecticut. I join with them. The CWC is in our national interests. It will enhance national security, protect American jobs; it will help maintain our position of global leadership; and, my friends, most important of all, it really will protect the world from the most horrible, horrible weapons of our time.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Thank you, Mr. President. I thank my colleague from Vermont for his generosity, and my friend from Connecticut. I join with them. The CWC is in our national interests. It will enhance national security, protect American jobs; it will help maintain our position of global leadership; and, my friends, most important of all, it really will protect the world from the most horrible, horrible weapons of our time.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Thank you, Mr. President. I thank my colleague from Vermont for his generosity, and my friend from Connecticut. I join with them. The CWC is in our national interests. It will enhance national security, protect American jobs; it will help maintain our position of global leadership; and, my friends, most important of all, it really will protect the world from the most horrible, horrible weapons of our time.

Mr. President, yesterday I included some extensive remarks in the Record regarding our treaty options today. I think the remarks speak for themselves today.

First, I begin by commending our colleagues, the chairman of the Foreign Relations Committee, Senator Helms; the ranking Democrat on the committee, Senator Biden; the majority leader, Senator Lott; and the minority leader, Senator Daschle, for working out the arrangements of this treaty so we can come up for a vote prior to the April 29 deadline.

Let me ask, Mr. President, while there are disagreements—and there will be over the ultimate decision of whether or not to support the treaty—I think the debate and the process we have gone through has been healthy. I suspect those who are deeply involved in the workings of this treaty have improved it. So I commend all of our colleagues for the work they have done on this particular effort. I think it is how the Senate of the United States ought to conduct its business when it comes to matters dealing with obligations to commit our country for many years to come. It was no mistake that our Founding Fathers required super-majorities to commit this Nation to international arrangements, and the fact that we require super-majorities for treaties, I think, is worthwhile.

Mr. President, I want to focus my attention, if I can, on the first amendment and condition here. The amendment will strike a condition in the treaty that has been included by Senator Helms. I am going to oppose condition 30, which I believe will be the first vote we will cast. This is the rogue states condition. I will explain what that means and express why I think it ought to be struck from this treaty in the brief time I have available to me.

Mr. President, we must ask only one question today. We must ask: Is this treaty in the best interests of our country? That is our obligation as Members of the U.S. Senate. That is the question which we must address. This condition 30, the rogue states condition, I think, is not in the best interest of the States of America. It will again ask the United States of America to wait until all of the pariah states of the world ratify before we, ourselves, would accept the treaty that we, ourselves, negotiated.

There is a reason, Mr. President, that we use the words rogue and pariah to describe these countries such as North Korea, Libya, Syria and Iraq. More than any other conditions we will vote on, Mr. President, later today, this condition would delay indefinitely, in my view, the ratification of this treaty. The so-called rogue states condition, in my view, is a new agreement. This convention would establish an international norm that it will allow us to pressure rogue states who decide they would rather keep and enhance their chemical weapons stockpile. On the basis of what we now know about the Persian Gulf war, that the thousands of this Nation's troops may have been exposed to chemical agents, we must not pass up the chance, in my view, to establish a norm that would have made it far more difficult for Iraq to have the weapons in the first place. Remember, Mr. President, there is no law that bars a nation from building, stockpiling, upgrading, or transferring their chemical weapons. In fact, when Iraq used chemical weapons against the Kurds, as heinous an act as it was, the Iraqis did not even violate the Geneva Protocol because they did not use the agents in an international conflict. What we need today, Mr. President, is a new agreement. This convention goes much farther in establishing a basis for international action against chemical weapons themselves.

I further object, Mr. President, to this rogue states condition because we should not allow any decisions to be dictated by rogue states—by a Libya, a North Korea, and an Iraq. Let us remember that the negotiating teams of President Reagan and President Bush anticipated the likelihood that rogue nations would not accept this treaty. That is why President Reagan's and President Bush's teams included sanctions, when they wrote this treaty, against nations that remained outside of this treaty. This condition 30, the rogue states condition, results in those negotiating teams that worked so hard and with such great foresight on this very treaty. It assumes that they were so shortsighted that they did not anticipate that rogue nations would not accept this treaty. The truth, again, is that the negotiators knew very well that these rogue nations would look upon this treaty as something that they would have to oppose, so we and other nations determined that these rogue nations be penalized.

How ironic it is, Mr. President, that unless the United States strikes this nations do, we have decided to take ourselves out of the chemical weapons business unilaterally, and yet the assumption under this faulty condition is that we must not disarm until other nations with chemical weapons or chemical weapons capability disarm as well.

We must be clear, Mr. President, that having agreed, ourselves, to destroy our chemical weapons, this treaty would not allow our action with the backing of the world to bring other nations to do the same. As Secretary Albright has said very simply, "This treaty is about other nations' chemical weapons, not our own." We will destroy, Mr. President, our weapons because they are no longer needed. So this idea that we must wait for other nations to ratify this treaty, I believe, is fatally flawed.

This convention would establish an international norm that will allow us to pressure rogue states who decide they would rather keep and enhance their chemical weapons stockpile. On the basis of what we now know about the Persian Gulf war, that the thousands of this Nation's troops may have been exposed to chemical agents, we must not pass up the chance, in my view, to establish a norm that would have made it far more difficult for Iraq to have the weapons in the first place. Remember, Mr. President, there is no law that bars a nation from building, stockpiling, upgrading, or transferring their chemical weapons. In fact, when Iraq used chemical weapons against the Kurds, as heinous an act as it was, the Iraqis did not even violate the Geneva Protocol because they did not use the agents in an international conflict. What we need today, Mr. President, is a new agreement. This convention goes much farther in establishing a basis for international action against chemical weapons themselves.

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rogue states condition, we now will be penalized ourselves. Germany, I point out, has already indicated its intent to impose the sanctions against non-participants that this treaty mandates. Let us be aware, Mr. President, we live in a world as Chomsky described it as a ‘multipolar’ and ‘post-nationalist’ to describe today’s world. Other nations are increasingly capable of taking action without our leadership, regrettably I might add. Those who think we can hide behind the words “multipolar” and “post-nationalist” to describe today’s world. Other nations are increasingly capable of taking action without our ratification are thinking of an older world, of the days when the United States declined to participate in the League of Nations and it failed as a result. Mr. President, that was over three-quarters of a century ago. Let me assure my colleagues that to the extent we isolate ourselves today, our country will pay a price tomorrow.

The question before us this hour with this condition that will come up shortly, is, will we allow a group of rogue, renegade nations to disengage the United States from the international community on this issue of chemical weapons?

Mr. President, when this Nation allows itself to be held back by the short-sightedness, the evil of other nations, we make a huge mistake indeed. President Reagan did not wait for other nations when he took the first step forward on the matter of chemical weapons by declaring that the United States would unilaterally destroy its chemical weapons stockpile. President Reagan did not wait for other nations when he initiated negotiations to ban chemical weapons on Earth. President Bush did not wait for other nations to sign this treaty. Presidents Reagan and Bush did not follow others in making those critical decisions. We led, as great nations must, and other nations followed us. Our Nation set the example. Now it is time for us to set the example once again.

Finally, Mr. President, we must keep in mind that opponents of this treaty argue on the issue. On one hand, they argue that rogue states will reap great benefits from the technology and intelligence available to them as participants in this treaty. That argument assumes that these nations can’t wait to participate in this treaty. Yet, on the other hand, this condition that we will vote on assumes that rogue states will avoid participating in this treaty.

If we do to this treaty pick up such a technological advantage, why aren’t these rogue nations crawling over themselves to ratify the treaty? They should be the first in line if that is the case. Why then do we need this condition?

The truth is, Mr. President, that rogue nations fear this convention and this treaty. Waiting for them to ratify is absurd. No one expects them to ratify, nor should that last become a party to a treaty that will severely restrict the flow of chemicals to those nations, rather than assisting them by a reluctance to move forward.

Mr. President, I urge the adoption of the amendment to strike, and I urge the adoption of the treaty itself.

I yield the floor.

The PRESIDING OFFICER. The chair recognizes the Senator from New Mexico, Mr. BIDEN.

Mr. BIDEN. Mr. President, I yield 7 minutes to my friend from New Mexico.

Mr. DOMENICI. Mr. President, first let me say that I believe the Senate has done itself proud with reference to the debate and participation of our Members in this series of debates and discussions regarding this treaty. When you add to it the closed session we had today, I think every Senator has had an ample opportunity to thoroughly understand this situation. I believe when the day ends and you have heard all of that, the overwhelming majority of the U.S. Senators are going to vote to ratify this treaty. I believe they are going to do that not because it is perfect, but because the world is better off and we are better off if we have this treaty than if we don’t.

Having said that, while the world has set about to perfect chemical weapons, I fear, there is about this. Not that in fact, I can remember, as a very small boy, a great uncle who was a totally disabled American veteran. He was an Italian immigrant taken into the First World War. He served in the U.S. Army, and he was the victim of mustard gas. In that war, the Germans used mustard gas, a chemical weapon on the front, on the lines. Many Americans received toxic doses. In fact, this great uncle of mine, as I indicated, collected veteran benefits for his entire life for a total disability because of the mustard gas being used in World War I. Science has perfected weapons beyond mustard gas, and the world lives under three scourges today. One is the possible proliferation of nuclear weapons, and the second is the proliferation of chemical weapons, and the third is the proliferation of biological weapons.

Now, we have attempted in the past, starting with President Eisenhower, to do something about the proliferation of nuclear weapons. While we haven’t succeeded in totality, we have clearly succeeded beyond anything men of that day thought it was not perfect. There were those who wanted to argue about it because it was not perfect, but we will on the rest of the world quicker and better than if we didn’t have it? In everything I hear, everything I have read, in discussions with scientists that worked on it, including some of the top scientists who negotiated this agreement, they have all said that, even with its defects, the CWC is more apt than not to bring the rest of the world to the same conclusion that America has come to. They support that we might get to a point where there are none of these weapons around. One is better than none. That is better than any treaty, as compared with no treaty.

There are all kinds of nuances that one can talk about as you look at something as complicated as this. But I think, fundamentally, the issue is: what is best for the United States after we have committed to destroy our chemical weapons, is it better that we have the treaty or not? From everything I can tell, the 28 conditions that have been agreed upon are good clarifications and may contain protections to our private property rights that we may have assumed early on would not be violated. But then we got concerned with the CWC and properly so. Now, there is going to be some judicial process to be required before inspections can occur. I believe we will now will protect private facilities as well as public facilities like our national laboratories through requirements for search warrants as part of the language that Senator HELMS agreed on with our side.

In summary, it seems to this Senator that if we join with other countries and begin moving to implement this treaty,
that we are better off with it than without it. Will it be difficult to get everyone in the world to agree with our position—the civil position of moral, decent leaders? I am not sure. But the question is, will it be any easier, or are we already better off, without the treaty? I am convinced that such is not the case.

Now, Mr. President, there are so many Senators to thank, but I say to J\'on W\'ri, whose position I don\'t agree with, that I don\'t believe anybody has done something more complicated as this since I have been in the Senate, which is now 25 years. I compliment him for that.

I yield the floor.

Mr. BIDEN. Mr. President, I yield 5 minutes to the distinguished Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. I thank the able Senator from Delaware, and I commend him for his extraordinary leadership with respect to the Chemical Weapons Convention. I know personally of the time and effort he has devoted to this cause. We are all in his debt.

Mr. President, less than a week before a landmark treaty—one which the United States led the world in negotiating—goes into effect internationally. The Chemical Weapons Convention, signed by President Bush on January 13, 1993, has now been ratified by 74 countries. The eyes of the world are upon the United States as we decide whether or not to join them.

It would be a major mistake if this treaty were to go into effect without us. Worse yet, if we fail to ratify, we could be jeopardizing our best chance to eliminate the chemical weapons that some day would be used against us.

This is a treaty that was advanced, negotiated, and signed by Republican Presidents with the encouragement, in 1999, of some 75 U.S. Senators. What a mistake it would be if the Senate were to forfeit this opportunity to protect American security, promote American interests and preserve American leadership.

If we fail to ratify the CWC, we will have done just that. If the Senate does not approve this historic treaty, our economic and security interests will suffer. Despite widespread and continuing support for this treaty, despite support from some of our Nation\'s outstanding military leaders—such as General Shalikashvili and former Chairman of the Joint Chiefs of Staff Colin Powell, Admiral Crowe, General Vessey, and General J, some of my colleagues argue that this convention does not serve our security interests.

The Chemical Weapons Convention is an unprecedented international agreement designed to eliminate a class of weapons of mass destruction. Unlike earlier protocols that prohibit only the use of chemical weapons, this convention aims at stopping their production, transfer, and storage by providing incentives for participation, verification of compliance, and penalties for violation. The United States is the only major industrialized country not to have ratified it yet. Our participation is critical to its ultimate success. This convention makes the threat of chemical weapons automatically disappear from the face of the Earth. But it will constrain their proliferation and make it harder for rogue regimes to gain access to them.

By increasing the legal, moral, and financial costs of acquiring chemical weapons, it will deter covert chemical weapons programs and increase the likelihood they will be discovered.

There are three major reasons why this treaty will serve American interests and why a failure to ratify it could have severe repercussions.

First, the convention requires other nations to do something we already plan to do—destroy chemical arsenals. Under a law first signed by President Reagan, the United States will eliminate our current stockpile of chemical weapons by the year 2004, independent of what happens in this treaty. Our President thinks that is a wise thing to do, even under a unilateral basis. The convention will simply ensure that others do the same.

In other words, this is not a debate over eliminating our own chemical weapons, but it is a debate over whether we are committed to do so. This is a question of whether we can establish a regime that will require other countries to destroy their chemical weapons and stop building new ones. That is why Admiral Zumwalt has stated, militarily, this treaty will make us stronger.

It is not enough, however, to ask other nations to ratify the treaty. We must do so ourselves. Today, we have an opportunity to lead the world in abolishing these terrible weapons, rather than having others name an excuse not to do so. If we do not adopt this treaty, or if we add crippling amendments, we will have single-handedly undermined the hope of ridding the world of this deadly scourge and of reducing the threat to our own citizens.

The second major reason to ratify this treaty is that it will provide us with better information about what other countries are doing in the realm of chemical warfare. We will know the verification regime is not perfect. The verification regime is never perfect in any treaty. There may be states that try to cheat on this agreement and others that refuse to sign it. But if we are party to the treaty, we will have an opportunity to investigate and sanction potential violations. We will take part in the organization established to monitor implementation, and we will help enforce its rules and procedures. As former Secretary of Defense William Perry, recently noted, "We will know more about the state of chemical warfare preparations in the world with the treaty than we would know without it."

Moreover, once we ratify the treaty we will be in a better position to do something about noncompliance. The CWC throws the force of world public opinion behind the identification and exposure of violators. Any violations will be discovered, brought to the attention of the international community to which we are now, providing ample opportunity for examination. Last year, after exhaustive and secret inspections, the CWC was reported favorably by the Senate Foreign Relations Committee, but not brought to a vote on the floor of the Senate.
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Over the past few weeks a new series of hearings has been held, in open and in closed session, and all perspectives have been thoroughly aired. The administration has worked in good faith to negotiate a new resolution of ratification with the Congress. In each of these cases, the tragedy and loss of life has been incalculable, and the administration has already agreed will resolve every legitimate concern that has been raised. I would urge my colleagues not to vote for pending amendments that would require renegotiation, delay, or abrogation of the CWC. If we don’t take this opportunity to begin abolishing these terrible weapons, we will rue the day that we are too late.

Mr. FEINSTEIN. Mr. President, I rise today to express my strong support for the Chemical Weapons Convention. I believe it is very much in our national interests to ratify this treaty, after all the 28 agreed conditions in the resolution of ratification.

Let me first express my respect and appreciation for the distinguished ranking member of the Foreign Relations Committee and the Senator from Arizona, Senator Kyl. I have worked well with Senator Kyl on many issues, including, at the moment, our strong effort to pass a Victims’ Rights Amendment to the Constitution.

I know that in this debate these Senators are motivated by their genuine and deeply felt concern for America’s national security. However, I must disagree with the view that we would be better off without this treaty, or by passing a resolution of ratification that essentially renders the treaty meaningless.

Mr. President, the threat of chemical weapons falling into the hands of terrorists, or being used as a weapon of war by a rogue state, has increased dramatically in recent years.

One aspect of the dangers faced by our military by Iraq’s incipient chemical weapons program during the gulf war, or the tragedies our Nation has suffered with the bombing of the World Trade Center, the Federal building in Oklahoma City, and the Olympic Park in Atlanta, to fully appreciate the dangers posed by the proliferation of chemical weapons. In each of these cases, the tragedy and loss of life could have been magnified significantly had chemical weapons been used.

The people of Japan know this first-hand. The deadly sarin gas attack carried out in the Tokyo subway system by the Aum Shunrikou cult was testimony to the power of even a relatively small amount of chemical weapons.

Chemical weapons are among the most barbaric of mankind’s inventions. They are the ultimate weapon of terror. On January 18, 1995, the United States, by act of Congress, has decided to eliminate our own stocks of these weapons by 2004. They are designed to kill and incapacitate by causing such effects as skin blistering, blindness, lung damage, choking, nervous system disruption, paralysis, or even death by exposure.

Because of the ease of their dispersal over a wide area, chemical weapons are especially useful for targeting civilian populations.

The Chemical Weapons Convention is the most far-reaching attempt ever by the international community to control the spread of chemical weapons. It bans for the first time the development, production, and possession of chemical weapons and reinforces the international norm against their use.

Since we are destroying our own chemical weapons, it only makes sense that we should want other nations to do so as well.

The convention requires all signatory states to declare and destroy any chemical weapons and the facilities used to produce them. It requires member states to submit annual reports on the production and use of certain sensitive chemicals. This information, combined with our own intelligence resources, will significantly improve our ability to monitor and prevent illegal transfers and uses of such chemicals.

Once the CWC takes effect, it will make it much harder and more costly for proliferators and terrorists to acquire chemical weapons. An intrusive verification system will be set up to detect violations. Sanctions will be imposed against nations that refuse to participate, making it more difficult for them to acquire precursor chemicals for production, or easier to monitor their efforts to do so.

The intelligence-sharing and global verification network that will result from this treaty will increase the chances that terrorist attacks involving chemical weapons can be prevented before they ever occur—a net gain in the security of our troops and our citizens.

Now, a number of very serious concerns have been raised about the CWC. I myself have shared some of these concerns. I will not speak to every criticism of the treaty, but I want to address some of these concerns now, because I believe very solid answers have been provided to virtually all of them.

Verification: Critics of the CWC have complained that it is not verifiable, and that it will be easy for nations who sign up to the treaty to cheat without getting caught.

We must start with the proposition that no arms control agreement is 100 percent verifiable. But with the CWC, we will know far more about who is trying to develop chemical weapons, where, and how than we would without the treaty. That is why the intelligence community has consistently testified that, while the treaty is not completely verifiable, they regard it as a highly desirable tool that will enhance our knowledge of chemical weapons, our programs and our ability to stop them.

The CWC’s verification regime requires routine inspections of all declared facilities working with significant amounts of chemicals listed by the treaty. In addition, declared or not, may be subject to short-notice challenge inspections if there are suspicions that it is being used to produce or store banned chemicals.

The CWC also establishes significant trade restrictions on precursor chemicals. These restrictions will make it more difficult for nations who are not parties to the treaty to acquire these chemicals, and will provide us with much more information than we currently have about who is seeking to import such chemicals, and in what amounts.

So the concern about verification, while valid, I believe it has been more than adequately addressed. We must go into this treaty with open eyes, aware that it will not detect every violation. But why would we deprive ourselves of the extremely useful tools and information this treaty would provide on the grounds that they are not fool-proof? It would be incredibly shortsighted to do so.

Sharing Defense Technologies: During one of the hearings in the Senate Foreign Relations Committee earlier this month, the concern was raised that Article X of the CWC would require the United States to share advanced chemical defense technologies with rogue nations like Iran, who may sign and ratify the treaty. If indeed the treaty required that, there would be significant grounds for concern. But I believe the concerns are unfounded. I would hope that Mr. Berger’s letter be printed in the Record at the conclusion of my remarks.

Let me first express my respect and appreciation for the distinguished Mr. Berger’s letter be printed in the Record at the conclusion of my remarks.
and with the Majority Leader’s task force on the CWC, they have agreed to a binding condition (number 15) that would ensure that the United States will not provide any assistance other than medical assistance to any rogue nation that becomes a party to the treaty.

Another concern about Article X is that paragraph 3, which calls for parties to “facilitate ... the fullest possible exchange” of information and technology on protection against chemical weapons, would require the United States to share such equipment with rogue nations who sign and ratify the treaty.

The administration has made clear that the use of the words “facilitate” and “possible” in this paragraph mean that we will determine whether any specific exchange is appropriate, and we will not pursue those we deem inappropriate. In making these decisions, we will do nothing to undermine our national controls.

With these assertions in hand, I am satisfied that the United States will in no way be obligated to provide chemical weapons technology to any nation we deem to be untrustworthy.

Some have raised the concern that Article X might induce other, less conscientious nations, to supply rogue states with defense technologies. But there is nothing that prevents those sales from taking place today, with no CWC in effect.

With the CWC, the countries who make exchanges allowed in Article X are legally bound by the treaty’s overriding principle, stated in Article I, that they can do nothing to “assist, encourage, or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention.”

In addition, the CWC would provide us with far more ability to scrutinize any exchanges than we have today. The result would be not increase, but decrease, in our knowledge of defense exchanges with rogue nations, and our ability to address any compliance concerns that may arise from these exchanges.

Cooperation on Chemical Technology: Another concern that has been raised involves Article XI. Some have suggested that Article XI, which deals with cooperation in chemical activities not prohibited by the treaty, would require the United States to provide other parties with access to our dual-use technologies and manufacturing secrets. Here again, the concern is unfounded.

Article XI does aim to ensure that parties to the treaty can conduct legitimate chemical commerce, which is reasonable. But in his April 22 letter, Mr. Berger explains that this article does not require the United States, or any U.S. company, to provide any confidential business information to any foreign party.

As to the concern that Article XI will undercut export controls, indeed, the reverse is true. Mr. Berger makes clear that the all U.S. export controls now in effect are fully consistent with the CWC.

In addition, our allies in the Australia Group, all 28 of them, have pledged to maintain all existing multilateral export controls, which they agree are fully consistent with the CWC.

Here again, the problem identified by critics of the CWC would actually be worse without the treaty. The CWC will allow us to better monitor chemical commerce that occurs today without our knowledge. It will also provide a basis for the United States to enforce unilateral efforts to control exports, above and beyond our own existing export controls and those of the Australia Group.

To address the concerns raised about Article XI, the Administration has agreed to a binding condition (number 7) that the President must certify now and on an annual basis that the Australia Group is continuing to effectively control chemical exports and remains a viable mechanism for doing so.

According to this condition, the President must also certify that nothing in the CWC obligates the United States to weaken our own export controls, and that each member of the Australia Group remains committed to maintaining those controls.

With this condition added to the resolution of ratification, I believe concerns about Article XI can be laid aside.

In fact, the negotiations between the Administration and Senator BIDEN on the one hand, and Senator HELMS and the Lott task force on the other, have been remarkably successful in addressing the concerns that have been raised about the treaty.

In all, 28 conditions have been agreed to in these negotiations, on subjects ranging from verification and Articles X and XI, to Congressional prerogatives in providing funding for the OPCW; the establishment of an inspectorate; the ratification of the treaty; safeguards on intelligence sharing; the Senate’s role in reviewing future treaty amendments; constitutional protections in the inspection of U.S. facilities; our armed forces’ continued ability to use non-lethal riot control agents, such as tear gas; and maintaining robust U.S. chemical defense capabilities.

With all of these conditions agreed to, there are only five areas remaining in dispute. One would think we were near the point of a virtually unanimous vote to ratify the CWC.

And yet, we still hear charges that the administration is “stonewalling.” That is simply not the case. Far from stonewalling, the administration has worked very hard to address the Senate’s concerns. But it appears that some people simply do not want to take yes for an answer.

And so, we have five conditions in this resolution of ratification which the Administration has identified as “killer” conditions. These conditions would make our ratification of this treaty meaningless, because they would either gut central provisions of the treaty, or set up unachievable goals that must be met for us to deposit our instruments of ratification. They should all be defeated.

Let me briefly address each of these killer conditions.

Condition 29 would prohibit the United States from ratifying the CWC until Russia ratifies it and takes a series of other actions to comply with past agreements.

Besides holding United States foreign policy hostage to a group of hardliners in the Russian Duma, this condition ignores the fact that the CWC provides precisely the tools that would be helpful in detecting Russian violations of the past and past treaties. It also gives Russia an easy excuse to delay ratification itself. On the grounds of self-interest, this condition shoots ourselves in the foot.

Condition 30 would prohibit the United States from ratifying the CWC until rogue states such as North Korea, Libya, Syria, Iran, and Iraq have ratified it. By accepting this treaty, we allow these rogue regimes to set the standards of international conduct. It is the equivalent of saying that we should not outlaw drug smuggling because some people will still smuggle drugs.

By ratifying the CWC, the United States will make it easier to forge international coalitions aimed at eliminating the chemical weapons programs of these regimes, even through military force when necessary. It will also set a standard for those nations to move toward and when those regimes are replaced by more responsible ones.

Condition 31 requires the United States to reject all CWC inspectors from countries like Iran and China. This condition is unnecessarily rigid. It would prevent us from allowing suspect states from seeing for themselves that we are not violating the treaty. It would also certainly result in American inspectors being excluded from inspections in these countries.

A better approach would be to strike this language and enact implementing legislation that would allow Congress a role in determining which inspectors should be barred, which the CWC allows the United States to do on a case-by-case basis.

Condition 32 would prohibit the United States from ratifying the CWC until Article X is eliminated and Article X I is amended. This is completely unilateral and completely unnecessary. Articles X and XI were included to reassure those nations, even through military force when necessary. It would also certainly result in American inspectors being excluded from inspections in these countries.

None of the 160 nations who have signed or 74 nations that have ratified the treaty will agree to renegotiate these provisions at the eleventh hour. It will simply result in our exclusion from the CWC—which is clearly the intent.

As Gen. Brent Scowcroft, National Security Adviser to President Bush,
Our failure to ratify this treaty would be a grave mistake. The treaty will enter into force on April 29, with or without us. This is the only treaty that there is, and it requires U.S. leadership to make it work. Only by being a party to this convention can we make it function to its fullest possible extent.

I believe every Member on this side of the aisle supports this treaty. I urge my Republican colleagues to vote for ratification, after voting to strike the five killer amendments.

EXHIBIT 1


Hon. DIANNE FEINSTEIN,
U.S. Senate, Washington, DC.

DEAR SENATOR FEINSTEIN: I am pleased that we were able to talk last week about ratification of the Chemical Weapons Convention, including the concerns which have been raised about Articles X and XI of the treaty. I would like to take the opportunity to elaborate further on these issues and set the record straight.

Regarding Article X, concern has been expressed that this provision might force us or our allies to assist others who may not be protecting their population adequately. The CRS provision #10 on assistance to States that are not in compliance with the obligations of Article I is to encourage countries to join the CWC and eliminate their CW programs. Ratification of Articles X and XI of the CWC, as the Helms condition (#32) in the Resolution of Ratification would require, is not a realistic option. We made it very clear throughout the negotiations that all of this was subject to Article I, which is the fundamental obligation not to assist. But the most important point is this: The U.S. interpretation is the fact that after the Convention was done so many of the usual list of suspects were so unhappy that they did not get what they wanted in these provisions.

I would note, in conclusion, that renegotiation of Articles X and XI of the CWC, as the CRS provision #10 in the Resolution of Ratification would require, is not a realistic option. This treaty was intensively negotiated for more than 10 years and has been signed by 162 countries and ratified by 74. As Brent Scowcroft recently testified, "Starting over... is pure fantasy. If we reject this treaty, we will incur the bitterness of all of our friends and allies who followed us for 10 years in putting this together... The idea that we can lead out again down a different path I think is just not in the cards. We have to deal with the situation we face now, not an ideal one out in the future." This is why the Senate must vote to strike this Helms Condition.

I hope this information facilitates the Senate's consideration of the CWC and look forward to a successful vote in the coming days.

Sincerely,

SAMUEL R. BERGER,
Assistant to the President for National Security Affairs.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. HELMS. Mr. President, I suggest that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Amendment No. 47)

(Purpose: To strike condition no. 30, relating to chemical weapons in other states)
The best way to affect the behavior of these rogue states is to bring to bear the combined weight of the civilized nations of the world to isolate, sanction, and target those nations who would continue to produce chemical weapons in defiance of the creation of this international norm. But Mr. President, first we have to establish the norm. If the United States of America says we will not join unless the bad guys join, then there is no reasonable prospect that such a norm will be established. As Secretary of State Madeleine Albright has noted, to say that we should not have a CWC because there will be people out there who will continue to produce chemical weapons, or who will cheat, is a little bit like saying we should not have laws because people will break them. We should not have laws against murder because we know people are going to murder people. So has a CWC been the norm. The point is that today there is nothing illegal—let’s get this straight—under international law about producing chemical weapons, developing chemical weapons, or stockpiling chemical weapons. The, the supposed Libyan chemical weapons program is completely legal today. The Iraqi chemical stockpile is completely legal today. In fact, there is nothing in international law that prohibits the use of chemical weapons internally. Like Saddam Hussein’s poison gas attack against the Kurds within Iraq, there is nothing illegal about having or using these weapons in your own country. That will change once the CWC is in force.

To quote Gen. Colin Powell, “For us to reject this treaty now because there are rogue states outside that treaty is the equivalent of saying that we should not have joined NATO because Russia wasn’t part of NATO.” That is former Chairman of the Joint Chiefs Colin Powell—not me.

This treaty will establish standards by which to judge others. If it is violated—that is, if the treaty is violated—it will provide the basis for harsh action to punish and bring violators into compliance. The opponents will say that norms are meaningless unless there is a will to enforce those norms. They are right. But on that point, I would point out that without a norm there is nothing to enforce.

The bottom line is this: With the treaty we will have more tools and greater flexibility to act against those countries that threaten us and their neighbors. Should we choose military action we would be able to justify it as a measure to enforce the terms of a treaty to which we and 160 other nations who are signatories—only 74 ratified—are parties. North Korea is not. Libya is not. But 160 other nations have signed, and we are going to say that we will not join unless North Korea joins. As Gen. Colin Powell said, I am glad these folks weren’t around when NATO was starting up to say we are not going to have NATO because Russia can’t be a part.

Mr. President, I reserve the remainder of my time. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Mr. President, there is a lot of misunderstanding about this treaty. It has been advertised incorrectly—not explicitly, of course—out of the bell; as an end to the peril of chemical warfare. And a lot of people think it will all be over, and we will not have any more danger.

The truth of the matter is that they will not do a thing in the world to help the situation because the Chemical Weapons treaty—Convention, as it has been called—is not a comprehensive ban. This treaty contributes to the national security of the United States and America. That is what I am primarily interested in.

This treaty, it seems to me, must at a minimum affect those countries possessing chemical weapons which pose a threat to the United States. Accordingly, the United States should not become a party to this treaty—many Senators feel—until those countries are also participants. And no effort has been made to encourage them to come in. We are standing alone, and they are going to go about their little deviltry unmolested. Rogue states—like Iran, Iraq, Libya, Syria, and North Korea—clearly represent a threat to United States security and the security of key United States allies. And not one of these countries has signed the CWC, and not one of them is likely to ratify.

First, the intelligence people in our own country—we call it the intelligence community—reported that all of these governments have active aggressive programs. Develop and produce chemical weapons.

In March 1995, I believe it was, regarding the nonproliferation treaty, the Central Intelligence Agency released an unclassified estimate that the number of countries with active chemical weapon programs was as follows: South Korea, Iran, Iraq, Syria, and North Korea. However, at the Central Intelligence Agency, I believe that it had been assessed an unclassified estimate that al-Qaeda, the Islamic group, is going to go about their little deviltry unmolested. Rogue states—like Iran, Iraq, Libya, Syria, and North Korea—clearly represent a threat to United States security and the security of key United States allies. And not one of these countries has signed the CWC, and not one of them is likely to ratify.

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countries have been and will continue to be the paramount chemical weapons threat to the United States.

About 6 years ago, during Operation Desert Storm, the United States was so concerned about Iraq's chemical weapons program that we focused a huge percentage of our long range, high tech, high profile efforts upon Saddam Hussein's chemical weaponry. A facility 65 miles north of Baghdad was the nucleus of Iraq's chemical weapons program, and a priority target during the early days of the gulf war. I was not the one who anticipated that those facilities would pay much attention. And I am amazed now that no one seems to remember General Schwarzkopf's remarks during a press briefing at that time in Saudi Arabia. It was on February 27, 1991. Here is what he said:

The nightmare scenario for all of us would have been to go through the Iraqi tank barrier, get hung up in this breach right here and then have the enemy artillery rain chemical weapons on the troops that were in the galle, in the breach right here.

Pointing to specific points.

Well, the point is this. That nightmare scenario exists today since Iraq has neither signed nor ratified this treaty.

Let us look at another rogue regime, North Korea. On March 18, 1996, the Director of the Defense Intelligence Agency, Lt. Gen. Patrick Hughes, forwarded to me a DIA assessment of North Korea's military capabilities which underscored United States concern with the war-fighting uses to which chemical weapons can be put.

Now, according to that study, and I am quoting, 'In any attack on the South, Pyongyong could use chemical weapons to attack forces deployed near the DMZ, suppress allied air power and isolate the peninsula from strategic reinforcements.'

Now, in boasting that this treaty will make our soldiers free from the threat of chemical weapons, the administration either has forgotten or deliberately ignored the fact that North Korea has neither signed nor ratified the CWC and the threat posed by North Korea and Iraq and others here. Now over 30,000 United States troops face North Korean troops armed and extensively trained with chemical weapons. Key airfields and ports are within striking distance of North Korean missile sites, and with just a handful of chemical weapons, North Korea could force United States aircraft to withdraw from the Korean Peninsula to Japan, and in fact in the near future North Korea may be even able to strike air bases in Japan with chemical munition without air support and if it were to happen, our ground forces and our South Korean allies would be overwhelmed within days.

The threat to the United States forces in the Persian Gulf being rotated from Iran and that is no less troubling. Mr. President. The bottom line guess is that rogue states—if you will look at the chart—see chemical weapons as the best means to offset the superior conventional forces of the United States and its allies. These countries continue to develop plans to use chemical weapons in the event of war, and we must remember I think, Mr. President, that each of these countries are state sponsors, Government sponsors, of terrorist organizations that supply chemical weapons to terrorist groups.

So when the CWC enters into force, our troops will be no safer from chemical attacks than they are today because the countries of greatest concern are not acceding to this treaty. For the CWC to offer any improvement, however modest, to the national security of the United States, it must at a minimum, I think, affect those countries with aggressive chemical weapons programs, those countries which have hostile intentions toward the United States and the American people.

I urge Senators, please, to oppose this motion to strike this key provision.

Have the yeas and nays been ordered on the motion?

The PRESIDING OFFICER. They have not.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are ordered on the motion. The PRESIDING OFFICER. They are called, somewhat antiseptically, under the Constitution, and quite possibly never, if the expectation were to someday ratify the CWC. If that was the case or it was about to happen or had happened, there would be a lot less concern about how we are going to go about clarifying, inspecting, or challenging during the course of this treaty.

But that is not the case. There is not one of those Senators who has drafted this resolution who can look any other Senator in the eye in this Chamber and say, I believe that any of those rogue states are about to ratify tomorrow, the next day, or the next day. That is not going to come as any surprise to anybody here in the Chamber, Mr. President.

The text is very short, and I just want to quote it verbatim. It says:

Prior to the deposit of the United States instrument of ratification, the President, in consultation with the Director of Central Intelligence, shall certify to the Congress that countries which have been determined to have offensive chemical weapons programs, including Iran, Iraq, Syria, Libya, the Democratic People's Republic of Korea, and all other countries determined to be state sponsors of international terrorism have ratified or otherwise acceded to the convention.

Let me translate that into simple English. Under the terms of that condition, we will hold ourselves hostage to the very outlaw, rogue states that we seek to control by passing this convention. Under the terms of that condition, we would in fact do nothing to change the status quo.

The distinguished chairman of the committee said we have to hold on to this amendment and defeat the treaty essentially because Iran, Iraq, Libya, these countries have chemical weapons today. Well, if we do not pass this treaty, nothing whatsoever will change with respect to the threat versus the United States. Each and one of those countries will continue to produce and we will continue on the path that we have been on for some years which is destroy our chemical weapons stocks. Why? Because we have decided, and appropriately believe, that we do not need and do not intend to fight a war with chemical weapons.

Now, this particular reservation has a noble objective. I do not think any of us would argue, the real objective is to get those rogue states to get rid of their chemical weapons. We are all in favor of that, that is the real objective. But I respectfully suggest the real objective is to come around through the back door and do through the back door what they may not be able to do through the front door. There is no Senator in this Chamber who does not hope that Iran, Iraq, Syria, Libya, the Democratic People's Republic of Korea, and all other countries determined to be state sponsors of international terrorism have ratified or otherwise acceded to the convention.

The PRESIDING OFFICER. Is there a sufficient second?

Is there a sufficient second?

There is a sufficient second.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield the distinguished Senator from Massachusetts. up to 10 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts for 10 minutes.

Mr. KERRY. I thank the Chair. I thank the distinguished minority manager.

We have now finally arrived at the first of a series of real confrontations on this treaty, and we will vote shortly on this striking of the first reservation. It really is not possible to overemphasize the importance of each of these votes. There are four votes, each of which would cripple this treaty. If there are 100 Members of the Senate prepared to vote on this treaty—and we know there are not—but if there were and we subsequently were to adopt one of these reservations, those 100 votes would be absolutely meaningless. And I respectfully suggest the real objective is to come around through the back door and do through the back door what they may not be able to do through the front door.

The fact is that the United States would be simply unable to ratify now or at any time in the immediate future, and quite possibly never, if the effort to strike any one of these fails. That is the gravity of what we are going to be doing in this Chamber in the course of this afternoon.

The first of these conditions, condition 30, which the Senator from Delaware has ably discussed, has been called, somewhat antiseptically, Chemical Weapons in Other States.
LET ME BE CLEAR ABOUT THIS. THE PRIMARY PURPOSE OF THE STRICT REQUIREMENTS FOR CHALLENGE INSPECTION AND THE PROCESS OF TRACKING PRECURSOR CHEMICALS IS NOT NECESSARILY TO KEEP TRACK OF THE PEOPLE THAT WE KNOW ARE GOING TO LIE AND TRY TO TRICK THE UNITED STATES TO DO SOMETHING WE DON'T WANT TO DO. THE REALITY IS THAT THE PEOPLE THAT ARE MOST LIKELY TO BREAK THE TREATY, AND EVERY ONE OF THE EXPERTS HAS SUGGESTED THAT WITH RESPECT TO THE ROGUE STATES YOU ARE BETTER OFF HAVING THAT TRACKING PROCESS, THE DECLARATIONS OF SALES, THE ABILITY TO TRACK THE PRINT OF CHEMICALS THROUGH THE GLOBE IN ORDER TO BE ABLE TO HOLD THOSE COUNTRIES ACCOUNTABLE.

THAT IS THE PURPOSE OF THIS TREATY. SO WE HAVE SORTED OF A DOUBLE NEGATIVE HERE. IF WE ALLOWED THIS PARTICULAR RESERVATION TO STAND, NOT ONLY WOULD WE HOLD OURSELVES HOSTAGE TO THE VERY COUNTRIES THAT WE WANT TO HAVE ELIMINATE THE WEAPONS, BUT WE ALSO WOULD ELIMINATE THE MEANS THAT WE HAVE CREATED TO BE ABLE TO GET THEM TO ELIMINATE THOSE WEAPONS.

SO, MR. PRESIDENT, I RESPECTFULLY SUGGEST THIS TREATY WAS NEGOCIATED AND CRAFTED PRECISELY TO APPLY THE PRESSURE OF WORLD OPINION, THE DIPLOMATIC PRESSURE, THE ECONOMIC PRESSURE ON THE RECULCITANT NATIONS WHOSE LEADERSHIP FLAUNTS THE CIVILIZED NORM.

THE SENATOR FROM NORTH CAROLINA IS ABSOLUTELY CORRECT. THESE NATIONS DO HAVE THESE MATERIALS. THESE NATIONS WILL, IF NOT CONVINCED, IN A NUMBER OF CASES CONTINUE TO PRODUCE THEM. BUT THE ISSUE IS HOW YOU BEST TRY TO PRESSURE THEM TO REFORM THEIR BEHAVIOR. HOW DO YOU MAKE IT AS DIFFICULT AS POSSIBLE FOR THOSE NATIONS TO DO THAT? HOW DO YOU ISOLATE THEM IN THE GREATEST MANNER POSSIBLE? PLAINLY SPEAKING, THE AUTHORS OF THIS AMENDMENT HAVE TO KNOW THE DISTINCTION BETWEEN HAVING THOSE MECHANISMS IN PLACE, WHICH THE DEFENSE DEPARTMENT AND OTHERS HAVE ALL SAID WILL HELP THEM MORE TO BE ABLE TO DO THE TRACKING, THAN NOT TO HAVE THEM.

I WANT TO EMPHASIZE ALSO THAT THERE IS AN IRONY IN THIS BECAUSE SOME OF THE PEOPLE WHO ARE ADVOCATING THAT WE WAIT UNTIL THE ROGUE NATIONS TURN AROUND AND CHANGE THEIR MIND ARE, FRANKLY, THE VERY SAME PEOPLE WHO USUALLY SAY NEVER GIVE UP ANY SOVEREIGNTY OF THE UNITED STATES TO ANOTHER NATION. HERE WE ARE TURNING OVER THE ENTIRE SOVEREIGNTY OF THE UNITED STATES TO MAKE A DECISION IN OUR BEST INTERESTS TO THE VERY ROGUE STATES THAT HAVE INDICATED ALREADY NO WILLINGNESS TO TRY TO ADHERE TO THESE STANDARDS.

SECOND, THE CONDITION EITHER FAILS TO RECOGNIZE OR IGNORES PURPORTLY THE REALITY THAT AT MIDNIGHT OF NEXT TUESDAY, APRIL 29, NO MATTER WHAT THE SENATE DOES TODAY, THE CHEMICAL WEAPONS CONVENTION TAKES EFFECT WITH OR WITHOUT U.S. PARTICIPATION.

SO IN OTHER WORDS, WHETHER OR NOT THIS CONVENTION IS FOOLPROOF, IS ABSOLUTELY THE BEST CONVENTION IN THE WORLD, REALLY BEGS THE ISSUE. THE REAL QUESTION BEFORE THE UNITED STATES IS HOW CAN WE BETTER OFF WITH THIS TREATY IN TERMS OF PROTECTING OUR SECURITY INTERESTS BY BEING PART OF THE CONVENTION, WITHIN ITS ORGANIZATION ABLE TO CHANGE IT, WHICH HAS ALREADY BEEN RATIFIED BY 74 NATIONS AND SIGNED OVER 160? IF WE FAIL TO RATIFY, OR IF WE FAIL TO RATIFY BY THIS RESERVATION, THEN WHERE ARE WE? WE HAVE JOINED THE OUTLAW NATIONS. WE WILL HAVE JOINED THE VERY NATIONS THAT WE WANT MOST TO AFFECT THE BEHAVIOR.

I THINK IT IS IMPORTANT TO NOTE THAT SOME MIGHT QUESTION THAT THIS TREATY BANS SOME PRODUCED CHEMICALS INSIDE THIS COUNTRY WITH RESPECT TO MILITARY AFFAIRS AND NATIONAL SECURITY AFFAIRS HAVE ALL AGREED THAT IT IS SIGNIFICANT FOR THE UNITED STATES TO BE ABLE TO NOT ALIGN ITSELF WITH THOSE NATIONS. GENERAL SCHWARCKOPF SAID:

I AM VERY, VERY MUCH IN FAVOR OF THE RATIFICATION OF THE TREATY.

AND HE SAID:

WE DO NOT NEED CHEMICAL WEAPONS TO FIGHT OUR FUTURE WARS. AND FRANKLY, NOT RATIFYING IT, THAT TREATY, WOULD JUST AS SEPTICALLY ASSESSED WITH THOSE THUGS IN THIS PARTICULAR MEASURE.

I THINK THAT IS A PRETTY STRONG STATEMENT ABOUT PRECISELY WHAT THIS RESERVATION WOULD HAVE THE EFFECT OF DOING.

GENERAL POWELL, WHO HAS ALREADY BEEN QUOTED BY MY COLLEAGUE, MADE IT VERY CLEAR THAT WE SHOULD NOT DO THIS AND MIGHT JUST AS SEPTICALLY ASSESSED WITH THOSE THUGS IN THIS PARTICULAR MEASURE.

I THINK THAT IS A PRETTY STRONG STATEMENT ABOUT PRECISELY WHAT THIS RESERVATION WOULD HAVE THE EFFECT OF DOING.

GENERAL POWELL, WHO HAS ALREADY BEEN QUOTED BY MY COLLEAGUE, MADE IT VERY CLEAR THAT WE SHOULD NOT DO THIS AND MIGHT JUST AS SEPTICALLY ASSESSED WITH THOSE THUGS IN THIS PARTICULAR MEASURE.

THE PRESIDING OFFICER OF THE SENATE'S TIME HAS EXPIRED.

MR. BIDEN. I YIELD MY Colleague OTHER 30 SECONDS.

MR. KERRY. FORMER ASSISTANT TO THE PRESIDENT REAGAN AND SECRETARY OF STATE JIM BAKER SAID:

SOME HAVE ARGUED THAT WE SHOULDN'T COMMIT TO THE TREATY BECAUSE STATES LIKE LIBYA, IRAQ AND NORTH KOREA, WHICH HAVE NOT SIGNED IT, WOULD STILL BE ABLE TO CONTINUE THEIR EFFORTS TO ACQUIRE CHEMICAL WEAPONS. THIS IS OBVIOUSLY TRUE, BUT THE CONVENTION, WHICH WILL GO INTO EFFECT IN APRIL WHETHER OR NOT WE RATIFY IT, WILL STILL BE ABLE TO CONTINUE ITS EFFORTS TO ACQUIRE CHEMICAL WEAPONS. THIS IS OBVIOUSLY TRUE, BUT THE CONVENTION, WHICH WILL GO INTO EFFECT IN APRIL WHETHER OR NOT WE RATIFY IT, WILL STILL BE ABLE TO CONTINUE ITS EFFORTS TO ACQUIRE CHEMICAL WEAPONS.

MR. HELMS. I HAVE HERE, MR. PRESIDENT, A GROUP OF EDITORIAL COMMENTS, MAKING, AS SAM ERVIN USED TO SAY, UNCOMMEN GOOD SENSE, IN OPPOSITION TO THIS TREATY, WHICH THEY WOULD LIKE TO HAVE PRINTED IN THE RECORD.

THERE BEING NO OBJECTION, THE EDITORIALS WERE ORDERED TO BE PRINTED IN THE RECORD, AS FOLLOWS:

CONGRESSIONAL RECORD — SENATE

APRIL 24, 1997

NO TO THE CHEMICAL ARMS TREATY

BY JAMES SCHLESINGER, CASPAR WEINBERGER, AND DONALD RUMSFELD

THE PHRASE 'DAMNING WITH FAINT PRAISE' IS GIVEN NEW MEANING BY THE OP-BY BRENT SCOWCROFT AND JOHN DEUTCH CHEMICAL WEAPONS CONVENTION ['END THE CHEMICAL WEAPONS BUSINESS,’ FEB. 11]. IN IT, THE AUTHORS CONCEDE VIRTUALLY EVERY CRITICISM MADE BY THOSE WHO OPPOSE THIS CONTROVERSIAL TREATY IN ITS PRESENT FORM.

THEY ACKNOWLEDGE THE HYPOTHESIS OF LIGHTS OF AGENDA CONCERNING THE CHEMICAL CONVENTION: ITS ESSENTIAL VIABILITY; ITS FAULTY TRAFFIC; THE PROSPECT THAT IT WILL INHIBIT NON-LETHAL USES OF CHEMICALS, INCLUDING THE CHEMICAL WEAPONS CONVENTION ('CWC'), WHICH PROPOSE TO REDUCE THE MENACE POSED BY WEAPONS OF MASS DESTRUCTION BUT WHICH CANNOT DO SO—INEVITABLY TEND TO DIMINISH THE PERPETRATORS OF TERROR AND PREVENT THE SUPPORT FOR DEFENSES AGAINST SUCH THREATS.

IN FACT, IN DECEMBER 1996, THE THEN-VICE CHIEF OF THE J OINT STAFF, GENERAL SCOWCROFT, AND GENERAL DEUTCH RECOMMENDED A REDUCTION OF MORE THAN $600 MILLION IN INVESTMENT ON CHEMICAL DEFENSES IN ANTICIPATION OF THE CONVENTION'S COMING INTO FORCE. IF THE TREATY COMES INTO FORCE, THERE MIGHT ALSO BE A REDUCTION IN THE PRIORITY ACCORDED TO MONITORING EMERGING CHEMICAL WEAPONS, NOTWITHSTANDING SCOWCROFT AND DEUTCH'S CALL FOR THE UNITED STATES TO TAKE RESPONSIBILITY FOR TRACKING PRECURSORS THROUGH THE GLOBE IN ORDER TO BE ABLE TO TRACK CHEMICAL WEAPONS DEVELOPMENTS.

SCOWCROFT AND DEUTCH CORRECTLY WARN THAT THE CWC MUST NOT BE EXPLOITED TO FACILITATE THE DIFFUSION OF CWC-SPECIFIC TECHNOLOGY, EQUIPMENT AND MATERIAL—EVEN TO SIGNATORY STATES. THE TROUBLE IS THAT THE CHEMICAL WEAPONS CONVENTION EXPLICITLY OBLIGATES MEMBER STATES TO FACILITATE SUCH TRANSFERS, EVEN THOUGH THESE ITEMS ARE READILY EXPLOITABLE FOR MILITARY PURPOSES. OF MORE CONCERN, THE TREATY COMPELS STATES NOT TO OBSERVE ANY AGREEMENTS, WHETHER MULTILATERAL OR UNILATERAL, THAT WOULD RESTRICT THESE TRANSFERS.

IN SHORT, WE BELIEVE THAT THE PROBLEMS WITH THE CHEMICAL WEAPONS CONVENTION IN THESE AND OTHER AREAS THAT HAVE BEEN IDENTIFIED BY BRENT SCOWCROFT AND JOHN DEUTCH CLEARLY DEMONSTRATE THAT THIS TREASON WOULD BE CONTRARY TO U.S. SECURITY INTERESTS. MOREOVER, IN OUR VIEW THESE SERIOUS PROBLEMS UNDERCUT THE ARGUMENT THAT THE CWC'S 'IMPOR TANT CONSTRAINTS' ARE BETTER THAN NO CONSTRAINTS AT ALL.

THE CWC WOULD LIKELY HAVE THE EFFECT OF LEAVING THE UNITED STATES AND ITS ALLIES MORE, NOT LESS, VULNERABLE TO CHEMICAL ATTACK. IT COULD WELL SERVE TO INCREASE, NOT REDUCE, THE SPREAD OF CHEMICAL WEAPONS MANUFACTURING CAPABILITIES. IN FACT, WE WOULD BE BETTER OFF NOT TO BE PART OF IT.

NOTABLY, IF THE UNITED STATES IS NOT A CWC MEMBER STATE, THE DANGER IS LESSENED THAT IT CAN ALERT OTHER INTELLIGENCE COMMUNITIES TO FOREIGN CHEMICAL WEAPONS PROGRAMS WILL BE DAMPENED DOWN OR OTHERWISE COMPROMISED. THIS HAS HAPPENED IN THE PAST WHEN ENFORCEMENT OF A VIOLED AGREEMENT WAS NOT ENFORCED TO THE SAME DEGREE AS THE ARMS CONTROL REGIME THAN WAS NONCOMPLIANCE BY ANOTHER PARTY. THE UNITED STATES AND THE INTERNATIONAL COMMUNITY WOULD BE UNWILLING TO HAVE MORE EASILY VERIFIED 1925 GENEVA CONVENTION BANNING THE USE OF CHEMICAL WEAPONS—even in
the face of repeated and well-documented violations by Saddam Hussein. What likeli-
hood is there that we would be any more in-
sistent when it comes to far less verifiable 
bans on production and stockpiling of such 
weapons?

As a non-party, the United States would 
also remain free to oppose dangerous ideas 
such as the destruction of chemical weapon 
manufacturing facilities and defensive equip-
ment to international pariahs such as Iran 
and Cuba. And the United States would be 
less likely to implement international agree-
ments in a fashion that would circumvent 
and effectively defeat the arms control 
mechanisms. In addition, the United States 
would then be asked to bear 25 
weight. This is particularly true since the 
rangements would not be given considerable 
tention, it is academic whether implementing 
arrangements are drawn up by others or not.

Second, the preponderance of trade in 
chemicals would be unaffected by the CWC's 
limited impact of remaining outside the treaty 
regime, if any, fairly modest on American 
contractors.

Finally, if the United States declines to 
join the present Chemical Weapons Conven-
tion, it is academic whether implementing 
arangements are drawn up by others or not.

In the event the United States does decide 
to become a party at a later date—perhaps after 

differences are made to enhance the treaty's 
effectiveness—it is hard to believe that 
its preferences regarding implementing ar-
rangements could be given through the same 
weight. This is particularly true since the 
United States would then be asked to bear 25 
percent of the implementing organization's 
budget.

There is no way to "end the chemical 
weapons business" by fiat. The price of at-
tempting to do so with the present treaty is 
unacceptably high, and the cost of the illu-
sion it creates might be higher still.

[From the Weekly Standard, Mar. 24, 1997]

A BAD TREATY

The United States Senate must decide by 
April 28 whether to ratify the Chemical 
Weapons Convention. The press, the pundits, 
and the Clinton administration have treated 
the decision as another chapter in the series 
of battles between "internationalists" and 
"isolationists" in the new, post-Cold 
War era.

In fact, what we really have here is the 
continuation of one of this century's most 
enduring disputes. In the first camp are the 
high priests of arms control theology, who 
have been advocates of international agreements 
they didn't like. In the second camp are 
those who take a more skeptical view of 
relaying on a piece of watermarked, signed 
participation—both possibly dangerous 
and both counterproductive.

The case for ratifying the Chemical Weap-
ons Convention is a triumph of hope over ex-
perience. It is an attempt to reform the world by collecting signatures. Some of the 
most dangerous nations—Iraq, Syria, Libya, 
and North Korea—have not ratified the con-
vention. The United States Senate must decide 
whether it will do so. Some of the nations that are signatories, like Russia, China, Iran, and Cuba, are mani-
festly unreliable and are already looking for 
ways to circumvent the convention's provi-
sions.

The convention's most prominent Amer-
ican defenders agree that the agreement is 
probably not verifiable. And it isn't.

Chemical weapons can be produced in small 
but deadly amounts in tiny make-shift labora-
tories. The nerve gases used by terrorists to 
poison subway riders in Japan in 1995, for in-
stance, was produced in a 34-ft.-by-8-ft. room.
No one in the American intelligence commu-

nity believes we would be able to monitor 
compliance with an international chemical 
weapons regime with any reasonable degree of 
success.

The Washington Post opines that these 
failings in the convention—the very fact 
"that the coverage of this treaty falls short 
and that there are a string of factual argu-
ments about its verifiability"—are actually 
arguments for ratifying it. Presum-
ably, signature of a flawed treaty will make 
all of us work harder to perfect it.

At the end of the day, the strongest argu-
ment proponents of ratification can offer is 
that, while the treaty is imperfect, it is 
better than nothing at all. We have pretty 
good evidence from the bloody history of this 
century that treaties—like the Chemical 
Weapons Convention—treaties that are more 
harmful than mandatory, that express good 
intentions but then require anyone to back 
Pads or choose destruction—can do 
more harm than good. They are part of a 
psychological process of evasion and avoid-
ance of tough choices. The truth is, the best 
way of controlling chemical weapons pro-
federation could be for the United States to 
bomb a Libyan chemical weapons factory.

But this kind of "hedge your bets" 
approach is a disaster for an American presi-
dent.

The Chemical Weapons Convention calls to mind the 
Reaganite internationalism from the more 
recent past. The Chemical Weapons Convention 
turns the clock back to the kind of Wil-
sonian thinking characteristic of the Carter 
administration. It is unfortunate that among 
the advisors to the Reagan administration 
who have served in key foreign-policy positions, it is true that the origins of the Chemical Weapons Convention date back 
to a Reaganite regime in which the White 
House was convinced that the end of the Cold 
War meant the world would be less dangerous.

The case against ratification of the CWC, signed by more than 160 nations— 
including the United States during the Bush 
administration.

The treaty requires the destruction of chemical weapons that are signatories to the treaty own or possess, or weapons anywhere 
under their jurisdiction; the destruction of chemical weapons abandoned on the terri-
tory of another state; the destruction of 
chemical-weapons production facilities; the 
prohibition of riot-control agents as a meth-
od of warfare—all reasonable and worthy 
goals.

Ever since 1875, when a French-German 
agreement not to use poison bullets was con-
cluded in Strasbourg, nations have struggled 
with how to limit the terribly destructive 
nature of chemical weapons, though none of 
the subsequent international agreements 
prevented the use of chemical weapons by 
war-faring factions.

In the 1980s, Iraq used chemical weapons, 
including nerve gas, against Iran, clearly 
vio lateing the 1925 Geneva Protocol. But an inten-
tional convention to enforce or fortify the Geneva Protocol, prov-
bly the difficulty is not a lack of law, but the 
failure to enforce it.

The case against ratifying the CWC, for the 
first time in U.S. history, private industry will be 
subject to foreign inspection, with inspectors
being dispatched from an agency based in the Netherlands. In addition, businesses must prove to the U.S. government and international inspectors that they are not producing or stockpiling chemical weapons with non-compliance fines reaching as high as $50,000 per incident. Tucson's Sundt Corp. estimates that "with five or more chemical weapons facilities in two states, up to 35 job-sites utilizing subcontractors and suppliers in eight states, the complete and final determination of what we have is a job for compounds and their derivative, the interactive relationships (with the list of chemicals) could involve the cost of a chemist's or consultant's time amounting to a billion dollars, not including Sundt Corp.'s administrative time."

Under the terms of the treaty, inspections may be conducted at any facility within a state party without probable cause, without a warrant. Inspectors will be authorized under the treaty to collect data and analyze samples. This could result in the loss of proprietary information, e.g. interviews with corporate personnel, employees, vendors, subcontractors; review of drawings, purchase orders, inspection and review of internal and external correspondence; we feel that it could be difficult to safeguard confidential business information during this inspection," says the Sundt Corp.

The obligation to open on-site inspections raises clear Fourth and Fifth Amendment concerns. American chemical manufacturers will need to be shown while a foreign state will have the right to a challenge inspection of a U.S. facility without the grounds that are essential for search warrants. As Sen. J. on Kyl, R-Ariz., has pointed out, the CWC may actually contribute to the proliferation of chemical technology because of its requirement that the United States share information with rogue nations, once they sign onto the CWC.

Furthermore, American technology that might actually enhance the safety of U.S. troops—such as non-lethal immobilizing agents—could be prohibited if the Senate ratifies the convention in its present form. The forces on both sides of this issue in Washington are men and women of good will. But the CWC is not a good deal for the United States. That is the message the Senate leadership, by the way, is trying to get at without U.S. ratification; the U.S. can join as a full member at any time.

The former Defense Secretaries could also point out that, as the Clinton administration stonewalling, by the way) is on record as willing to work with the administration to understand exactly what they are being asked to vote on. At the moment the focus is on political maneuverings instead of where the shoe is. As critics of the treaty— including four former Defense Secretaries who adamantly oppose the CWC: J. Schlesinger, Donald Rumsfeld, Casper Weinberger and Dick Cheney. Ask them about the treaty today. For heavens' sake, this is a treaty the United States itself negotiated! How can we possibly not ratify it?

The debate over the Chemical Weapons Convention looks like it's about to turn into a slugfest, notwithstanding last week's spectacle of Jesse Helms and Madeleine Albright holding hands. Intimations of the battle to come were heard the week before last, when Democrats threatened to stall all Senate actions unless a ratification vote is scheduled. The administration hopes. Senator Lott is perfectly capable of spotting a bum's rush when he sees one, and he expressly made no promise for a vote before April 29, the date the treaty goes into effect with or without U.S. ratification. Despite Chicken Little warnings from the White House, there is no deadline for ratification; the U.S. can join as a full member anytime.

Before a ratification vote, there is plenty of time for a vigorous, public examination. The best place to start is with hearings, which Senator Lott, chair of the Senate Committee on Commerce, has scheduled to begin on April 9. Senators, especially the 15 new ones who missed last year's hearings, deserve a chance to understand what they are being asked to vote on. At the moment the focus is on political maneuverings instead of where the shoe is: under the CWC, members could look for chemical weapons in New Zealand or the Netherlands, but not in North Korea or Libya or Iraq, which have no intention of joining.

The former Defense Secretaries could also talk about Articles X and XI, which would require American chemical manufacturers to share their latest technology with fellow signatories—including the likes of Iran and Cuba. Legal scholars could offer some thoughts on the treaty's requirements that American companies open their doors to surprise inspections as to whether that squares with the Constitution's protection of property rights and its ban on search and seizure. CEOs could talk on the treaty's regulatory burdens, not to mention the threat of industrial espionage as inspector-spies snoop around their factories and trolley through their files. Intelligence experts could discuss the impact on national security.

All this and more should emerge in hearings. In recent days, Republicans and Democrats have come to agree on 21 of 30 points of contention over the treaty. That progress (which comes after weeks of Administration stonewalling, by the way) is on record as willing to work with the administration to understand exactly what they are being asked to vote on. At the moment the focus is on political maneuverings instead of where the shoe is. As critics of the treaty—including four former Defense Secretaries who adamantly oppose the CWC: J. Schlesinger, Donald Rumsfeld, Casper Weinberger and Dick Cheney. Ask them about the treaty today. For heavens' sake, this is a treaty the United States itself negotiated! How can we possibly not ratify it?

The PRESIDENT. Senators, when does the White House plan to directly provide any financial support to the States for ratification? Mr. Kyl. Mr. President, 10 minutes.

The PRESIDENT. Take a shot at it. I want to be through along about 3:30, so we can vote.

Mr. Kyl. Mr. President, 10 minutes.

Mr. HELMS. Take a shot at it. I want to be through along about 3:30, so we can vote.

Mr. Kyl. The PRESIDENT. The Senator from Arizona.

Mr. Kyl. Mr. President, 10 minutes.

Mr. HELMS. Take a shot at it. I want to be through along about 3:30, so we can vote.

Mr. Kyl. The PRESIDENT. The Senator from Arizona.

Mr. Kyl. I also ask unanimous consent to have printed in the RECORD a number of op-ed pieces. There being not objection, the material agreed to be printed in the RECORD, as follows:
unfunded mandate, as well as the constitutional problems with spot checks by international inspectors. There may be ways out of these problems without the president having to back down from the treaty. One would be for the Senate ratification resolution (a document that accompanies all international treaties ratified by the Senate) that must be fulfilled before the United States formally joins the CWC regime. A creative solution might be, for instance, to say that the CWC will only be imposed on American companies at least until such a time as the treaty has been ratified by countries that are key to its effectiveness—nuclear powers and Vietnam. On Friday, Senate Majority Leader Trent Lott informed administration negotiators that they will have to deal directly with the staff of Sen. Jesse Helms’ Foreign Relations Committee, which is indeed where the responsibility belongs. Mr. Helms has some other issues outstanding with the administration, including State Department reorganization. If the CWC is truly as important as the White House claims it is, there’s little time to be lost in getting the White House to work on the legitimate problems of this treaty.


THE CHEMICAL WEAPONS COVERUP

By J. Michael Walker

President Clinton had hardly completed his first year in office when Sen. William Cohen (R., Maine) suspected that the administration was covering up ominous Russian military activities. Mr. Cohen introduced legislation requiring the president “to tell us and the American people what the Russian military was doing and what the implications are of Russian and Allied security.” The Pentagon made the information available to Congress—but withheld it from the public. Mr. Cohen complained that the report “was classified from cover to cover, even though much of the report did not warrant being restricted by a security classification.”

“Perhaps,” Mr. Cohen surmised in a speech on the Senate floor, “the administration was worried about being embarrassed given its acquiescence to Russian military advances.” When Mr. Cohen pushed for an American and Allied military presence in the Baltic region, “the decision to classify the report from the cover to cover has prevented Congress from conducting a complete public debate about Russian and Allied security.” The administration had been selling the CWC to the American people from becoming fully informed on these matters.

EARLY RESONANT

Mr. Cohen’s criticisms of the administration to which he now belongs seem eerily resonant. The issue today is the administration’s campaign to win Senate ratification of the Chemical Weapons Convention. Intended to abolish all chemical weapons world-wide, the CWC contains many loopholes, legal discrepancies and weak enforcement mechanisms. Several countries— notably including Russia—maintain clandestine chemical weapon programs designed to elude detection. The administration virtually ignored reports of Moscow’s continuing covert development and production of binary nerve agents, and made no visible attempt to induce Moscow to terminate the programs—until last week. For weeks, the Washington Times made public a classified Pentagon report. The report described Foliant, the code name of a super-secret program begun under the Soviets to develop nerve agents so lethal that microscopic amounts can kill. One of those substances is A-232 of the Novichok class of binary nerve agents, which were designed to circumvent future bans on such agents. The Pentagon report says the chemical formulas are not defined in the CWC lists. Therefore, Novichok weapons technically are not banned under the treaty. The administration counters that they are banned “in spirit,” but as with all its arms control agreements, Moscow has been banking on the technicality and the camouflage. Russian military scientists and journalists revealed the program, but Russian officials were forced to explain why it had done nothing for four years to convince Moscow to terminate its clandestine binary weapon programs. Yet the White House sometimes seems to have forgotten that even a dignified signatory like the United States is made from agricultural and industrial chemicals that aren’t deadly until they are mixed and therefore don’t appear on the CWC’s schedule of banned chemicals.

[From the Wall Street Journal, Feb. 19, 1997]
The world has known about A-232 since the May 1994 publication on this page of an article by a Russian scientist, who warned how his colleagues were attempting to camouflage the truth. It is now the subject of a classified Pentagon paper, reported in the Washington Times earlier this month, of what is shaping up to be an escala


The Administration was forced to sound the retreat then, pulling the treaty from consideration when it became clear that the Senate was preparing to vote it down. Now it’s in the time in full force of the Administration, hoping that at last it can begin to thwart the best on offer. But their case has acknowledged so many caveats that it’s hard to see how they’ve reached such optimism. The biggest danger of ratification is that it would similarly lull the United States and other responsible nations into the false belief that they are taking effective action against the threat of chemical weapons. The case for this treaty strains belief too far.

Mr. KYL. Mr. President, the condi

tion we have before us right now is whether or not the United States will be a party to a meaningful treaty, that is to say a treaty that covers nations that it needs to cover. It will not do us any good if we are a party to a treaty, paying 25 percent of the costs, to inspect ourselves. Right now, the countries that have treaty status are not the countries of the world; they are not of concern to us. They do not have weapons. As a matter of fact, right now the countries that are parties have nothing to inspect. The United States, if it believes that its treaty status is ultimately going to have any positive effect, that is to say if it has significant verification features, and if it is global in the sense that most of the countries of the world that have chemical weapons are parties to it, and if it is enforceable—at that point in time the United States presumably could get something out of this treaty. In the meantime, the only thing that we get out of it is the opportu

nity to pay a lot of money, as I say, to inspect ourselves. Because the countries that need to be inspected are not yet in it.

Specifically, 74 countries have ratified the treaty and they are the countries of least concern to the United States. The three countries that have the largest amount of chemical arms in the world—Russia and China and the United States—are not parties, nor are any of the so-called rogue countries of the world.

Many of these countries have no inten

tion of signing onto the treaty. North Korea, Iraq, Libya, Syria, and Sudan have all refused to sign the treaty. Others, such as Cuba and Iran, have signed the treaty but have not yet ratified it. In the meantime, some of these countries, such as Iraq, continue to stockpile and develop chemical weapons.

So, the question is, will the United States enter this treaty at a time when it is meaningless, or will we, instead, use our treaty status as a way to cause other countries of the world that they need to be parties to be parties. For the treaty to offer any potential improvement, however modest, to the national security interests of the United States, I think at a minimum it must affect those countries with aggressive chemical weapons programs and which have hostile intentions toward the United States. Let me just outline briefly who these—some of which are here.

North Korea—North Korea’s program involves the stockpiling of a large amount of nerve gas, blood agents, and mustard gas. And it is capable of producing much more chemical warfare technology. Its armed forces have the ability to launch large-scale chemical attacks using mortars, artillery, multiple rocket launchers, and Scud missiles. And it is presently developing a new generation of medium-range ballistic missiles that will be able to carry chemical warheads. North Korea has neither signed nor ratified the Chemical Weapons Convention.

Iraq—despite the most intrusive inspection and monitoring regime in the history of the world. And retained a chemical weapons production capability and continues to hide details and documents related to its chemical weapons program. The U.N. Special Commission believes that Iraq continues to hide chemical weapon producers, and weapons. Iraq admitted in 1995 that it had produced over 500 tons of a lethal nerve gas agent before the Gulf war. The U.N. inspectors have previously been unable to uncover evi
dence of this, despite rigorous inspection regime than even those mandated by the Chemical Weapons Convention verification regime. As noted, Iraq has neither signed nor ratified the Chemical Weapons Convention. Iran—Iran has been producing chemical weapons at a steadily increasing rate since 1984 and now has a stockpile of choking, blister and blood agents of over 2,000 tons. It also may have a small stockpile of nerve agent. It has been developing the ability to produce 1,000 tons of chemical agents per year. It has signed but not ratified the CWC. Even so, and this is critical, Iran’s chemical weapons program is among the largest in the Third World. It has continued to expand, even since Tehran signed the CWC. And the Central Intelligence Agency believes that Iran has no intention of abiding by the terms of the CWC.

Iran is making improvements to its chemical capability, and I suggest that it has made a long-term commitment to its chemical program. I repeat, the CIA believes that Iran has no intention of abiding by the terms of the CWC. It is the most active state sponsor of international terrorism. It is directly involved in planning and directing terror

or attacks. And it could supply chemical weapons to a number of terror
groups. Iran has not ratified the Chemical Weapons Convention.

Syria—has produced chemical weapons since the mid-1980’s. The CIA believes that it is likely that Syria’s chemical weapons program will continue to expand. Syria can independently produce
nerve agents and mustard gas, and is stockpiling both agents. It may have produced chemical warheads for its Frog and Scud missiles for use against Israeli cities. Syria has not signed nor ratified the Chemical Weapons Convention.

Libya—Libya has produced at least 100 tons of chemical agents, including mustard and nerve gas. Libya is capable of delivering its chemical weapons with aerial bombs, and may be working to develop a chemical warhead for ballistic missiles. Libya also possesses cruise missiles. Libya has neither signed nor ratified the Chemical Weapons Convention.

Mr. President, the point is, unless these countries are party to this treaty, whatever benefits the treaty has are essentially meaningless. This is one of the reasons why former Defense Secretary Dick Cheney said this, in a letter he wrote about a week ago. He said:

Those nations most likely to comply with the Chemical Weapons Convention are the regimes most likely to constitute a military threat to the United States. The governments we should be concerned about are likely to cheat on the CWC, even if they do participate.

In effect, [he wrote] the Senate is being asked to ratify the CWC even though it is likely to be ineffective, unenforceable, and unenforceable. Having ratified the convention, we will then be told we have “dealt with the problem of chemical weapons” when in fact we will not.

The CWC will lead to a sense of complacency, totally unjustified given the flaws in the convention.

Finally, to the point. The Senator from Massachusetts said that we are somehow associating ourselves hypothetically with the rogue states. Precisely the opposite is the case. We decide when to join this convention, not because the administration says there is an automatic deadline under which we have to do so, but what we will matter. When we are not having to pay 25 percent of the costs of a meaningless convention, in effect 25 percent of the costs to inspect ourselves. Mr. President, $200 million a year to help this U.N.-style bureaucracy, in addition to putting the businesses of the United States through all the hoops they are going to have to go through in order to comply with this convention.

I have written to my constituents the names of companies on the list supplied to us by the Government as potentially required to comply with the reporting requirements of the convention. They write back to me saying it would cost them $50,000, $70,000, or more than $100,000 a year, just to fill out the paperwork.

What we are saying is, instead of putting our businesses through the expense and hassle of having to comply with this when nobody in the United States has any intention of violating this treaty—these companies back in Arizona have no intention of producing chemical weapons—instead of submitting ourselves to that intrusive bureaucratic regulation and expense, not to mention the expense to the U.S. taxpayer, let us be involved in this when it means something; that is to say, when the countries we really care about are involved in it.

Finally, to the point that we are somehow associating ourselves with thugs by not joining, I find that really an argument that is, really—

Mr. HELMS: Insulting. Mr. KYL. Mr. President, I don’t want to use the word insulting, but it has no persuasive effect that way. Does this mean if a country like Iran or Cuba, for example, signs up, that we would be associating with lesser thugs? Actually, don’t the proponents of the treaty want us to associate with thug nations, if this is going to mean anything? Don’t we want all of those countries in the treaty with us?

Somehow, under their logic, we don’t want to associate with these thugs. Yet, they want to pass a treaty that, presumably, if it is going to mean anything, has these thugs in it, in which case we are associating with them.

Obviously, the point is not whether we are associating with thugs. I don’t think that any of us can fail to make appropriate distinctions here. The fact of the matter is that thug nations, if this treaty is to mean anything, ought to be part of the organization and, at that time, the United States then could participate in a meaningful way.

Until those thugs are a part of this treaty, we are just wasting our time and money and putting a lot of our citizens to an awful lot of unnecessary hassle.

The point of this condition is to make a point, to make the point that the countries that really matter are not even going to be governed by this treaty. It is one of the reasons why this treaty, in the end, cannot be supported.

The PRESIDING OFFICER. Who yields time? The Senator from North Carolina.

Mr. HELMS. Mr. President, allow me to inquire of the distinguished colleague, does he have somebody ready to go now? I do, if he does not.

Mr. BIDEN. Why don’t you go ahead?

Mr. HELMS. I believe I have an hour and 6 minutes that I saved a while ago. I yield 10 minutes of that to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I thank the distinguished chairman of the Foreign Relations Committee for his leadership on this issue, for talking about this treaty so that all of America is beginning to see what the issues are.

I hope to be able to support the Chemical Weapons Convention as strengthened by the resolution of ratification introduced by the chairman of the Foreign Relations Committee.

Before I begin, I want to draw our attention to the remarkable events in Lima, Peru. The Peruvian Armed Forces and police conducted a bold, daytime raid and rescued 71 of the 72 hostages being held by a terrorist group for 4 months. As part of the operation, the Peruvian Army used riot control agents to stun the terrorists and rescue the hostages.

I would caution my colleagues, regarding some of what we have read on this treaty, that the actions of the Peruvian Armed Forces that resulted in minimal loss of life among the hostages were quite possibly a violation of the Chemical Weapons Convention, which expressly forbids the use of riot control agents as a method of warfare.

I make this point because this treaty has many things in it that we must think about very carefully. I believe the proposals the distinguished Senator from North Carolina has offered in the resolution before us will turn a flawed treaty into an effective, verifiable tool of American foreign policy.

We are talking about safeguards that ensure the treaty will be something that America can support, knowing that we are protecting our constitutional rights and in the security of our country.

One of the amendments before us today would take away one of the very important elements of protection that we have been speaking. The amendment I am referring to does not require that the Director of the CIA certify that the countries which have been determined to have offensive chemical weapons, like Iran, Iraq, Syria, Libya, North Korea, China—have ratified the convention.

We want to make sure that those countries are going to come under the auspices of this convention. I think it is important that we have those safeguards.

So, I hope my colleagues will support the resolution, the underlying resolution, rather than the amendments that are being put forward.

Mr. President, international treaties extend the full faith and credit of the United States, and they become the law of our land when they are ratified. So the United States cedes a little sovereignty with every treaty the Senate ratifies. That is why the framers of our Constitution wanted to be very careful that two-thirds of the Senate would be needed to ratify any treaty that would become the law of our land.

Like no other treaty before it, the Chemical Weapons Convention will make it clear that we cannot buy off terrorists at the cost of sacrificing the ability of the United States and its allies to protect our citizens from whatever terrorist group might use chemical weapons to cause death and destruction.

We are talking about safeguards that ensure the treaty will be something that America can support, knowing that we are protecting our constitutional rights and in the security of our country.
Mr. President, I think we have to address three key questions when we are talking about not only destroying our chemical weapons but sharing the technology that we have for defending against them.

My first question: Will this treaty achieve the desired objective, an objective we all want, and that is to rid the world of chemical weapons?

I do not think so. Even the most ardent supporter of the treaty knows that this is not going to rid the world of chemical weapons. We know that there are outlaw regimes producing chemical weapons as we speak that have no intention of signing or ratifying this treaty.

Iraq is one example. Iraq makes a mockery of international agreements. The Government of Iraq has used chemical weapons against its own people, for Heaven's sake. Who among us believes that a government that would do this would honor an agreement when it has already used these weapons on its own people?

Even worse, this treaty as written actually encourages the spread of chemical weapons technology among the countries that are parties to it because articles X and XI require treaty participants to share their chemical weapons defense technologies and prohibits countries from placing restrictions on commerce in chemicals that can be used for weapons purposes.

Mr. President, now what we see here is good-intentioned, but we are talking about restricting ourselves from producing chemical weapons, which we want to do, and we are talking about sharing our defenses against chemical weapons with countries that may be represented in international inspection groups that would come into our businesses and could easily give this information back to the countries who are not signatories.

That is why these amendments are so important, so that every one of these countries that has chemical weapons will be a party to this agreement, so that at least we would know that we have some ability to sanction these countries when they are not able to show us that they are complying.

Mr. President, my second question is: Can we determine with reasonable accuracy that the other countries that have signed the treaty will honor it, as President Reagan's words, "trust but verify." We need the ability to verify.

This is a treaty that I am afraid there is no way we could really verify. In fact, even the supporters admit that you cannot really verify it. We are trying to strengthen it so that we will have at least some ability. But then it comes into question, are we going to exercise those abilities?

I think one of the concerns of the chemical defense community is that all those countries that have chemical weapons treaties have some ability to detect chemical weapons, which will be a party to this agreement so that at least we would have the mechanisms to go in and try to find these chemical weapons. Yet, you know even the best effort that we have been able to make is finding chemical weapons, we have failed. Right now our international agreements allow us to look in Iraq for chemical weapons. We have not found any. And yet all of the inspectors in the international group that are trying to find those weapons have not been able to do it, but I do not know exactly where they are.

Mr. President, I am just very worried that we would disarm ourselves and lose the ability to protect ourselves against a rogue nation that will not sign and ratify this treaty.

The amendments offered by the chairman of the Foreign Relations Committee, Mr. Helms, is a first step. But we are going to have to hold on to the protections that have been put in the bill by the committee because the fourth amendment to the Constitution is a pillar of the Bill of Rights. It protects the rights of our people against unreasonable searches and seizures. Yet this agreement, the chemical weapons treaty, would allow people to come in, international groups, to inspect our companies, not companies that are making chemical weapons—we do not do that—but companies that use chemicals for any other myriad of purposes, to get their trade secrets or our defense mechanisms against the chemical weapons that we may have to face one day.

Mr. President, I am very worried that we would disarm ourselves and lose the ability to protect ourselves against rogue nations that will not sign and ratify this treaty.

What are we doing about it? What are we doing? We are not standing up and saying, there are consequences to that action, because we do not want to rock the boat in some other area of foreign policy.

Mr. President, if we are not going to stand up when countries with whom we are trading and with whom we have friendly relations are this very day selling nuclear weapons or nuclear capped ballistic missiles to rogue nations like Iran and Iraq, how could we ever say that this treaty would be verifiable and that all of the signatories would comply with this treaty and that we would in fact do anything if they were not?

Mr. President, my third question is: Can we protect the constitutional rights of ordinary Americans affected by the treaty who are engaged in activities that have nothing to do with the production of chemical weapons? I think this is one of the most important issues that the Constitution right against an unreasonable search or seizure.

The protections offered by the chairman of the Foreign Relations Committee, Mr. Helms, is a first step. But we are going to have to hold on to the protections that have been put in the bill by the committee because the fourth amendment to the Constitution is a pillar of the Bill of Rights. It protects the rights of our people against unreasonable searches and seizures. Yet this agreement, the chemical weapons treaty, would allow people to come in, international groups, to inspect our companies, not companies that are making chemical weapons—we do not do that—but companies that use chemicals for any other myriad of purposes, to get their trade secrets or our defense mechanisms against the chemical weapons that we may have to face one day.

Mr. President, I am just very worried that we would disarm ourselves and lose the ability to protect ourselves against a rogue nation that will not sign and ratify this treaty.

The amendments offered today would take away the protections that are now in the resolution against that happening because the resolution says all of these rogue nations have not been a party to the agreement so that at least we would have the mechanisms to go in and try to find these chemical weapons. Yet, you know even the best effort that we have been able to make is finding chemical weapons, we have failed. Right now our international agreements allow us to look in Iraq for chemical weapons. We have not found any. And yet all of the inspectors in the international group that are trying to find those weapons have not been able to do it, but I do not know exactly where they are.

They are sure that they are there. So the verifiability becomes a real issue.
Mr. President, I think that the committee has done an excellent job of protecting the interests of Americans in this treaty. I hope that we can keep the safeguards so that all of us can vote for this treaty. I would like to because I respect the people who are for the treaty.

I have the greatest regard for President Bush. I think he is a wonderful man. He would never leave the United States of America defenseless. But you know, if Senator Key and Senator Helms had stood up, one of the safeguards that President Bush put in the treaty would have been taken out, and that is the use of tear gas by our forces in wartime, because President Bush made sure that we said right up front, yes, we will use tear gas because we would rather use tear gas than bullets.

President Clinton disagreed with that. He said, no, we would not use tear gas. But because of the efforts of Senator Key and Senator Helms, we have been able to agree on that issue.

So, Mr. President, I hope to be able to support this treaty. I thank the distinguished chairman of the committee for allowing me to speak for his leadership. I would like to be able to support it, but I will not support this treaty without the safeguards to the security of America. That is my first responsibility.

Thank you, Mr. President.

Mr. HELMS. I thank the Senator.

Mr. LUGAR. I thank the Chair.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I yield 10 minutes to my colleague from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 10 minutes.

Mr. LUGAR. I thank the Chair.

Mr. BIDEN addressed the Chair.

Mr. LUGAR. I thank the distinguished Senator from Delaware.

Mr. President, the objective of the Chemical Weapons Convention, the debate that we are involved in now, is leadership, a question of leadership by our country.

We can take a look at all the exceptions and the negative views, but the very positive force I think we want to stress in framing this issue is, the United States of America, our statesmen, President Ronald Reagan, George Bush, now President Bill Clinton, and many who have worked with them in the Armed Forces and in statecraft, recognize that our country has a very substantial problem in the world; namely, that of chemical weapons.

We came to a determination on our part that these weapons were unreliable, unstable, dangerous, and so dangerous, as a matter of fact, that we did not wish to employ them—we wished to destroy them. We have been doing that as a matter of fact.

Our dilemma is that other nations, primarily Russia, with substantial stores much greater than our own, but a variety of other nations, purportedly have these weapons. Our problem is to convince other nations in the world that we all ought to be about the task of ending production of these weapons, ending possession, storage, ending any vestige of chemical weapons.

Now, in order to do that, we have to bring other nations into this with us. Therefore, we have offered leadership now for many years. We have convinced 74 other nations that have already signed the Chemical Weapons Convention that they ought to be with us in this quest. I make that point at the outset, Mr. President, because the motion before the Senate is to strike a condition added, at least to this treaty, that would say we ought to forget our leadership, we ought to really forget what our objective has been for years. I presume we ought to forget we are in the process of destroying all of our own chemical weapons and simply hope that others will follow.

As a matter of fact, if we do not ratify this convention this evening, others will proceed, but they will proceed without us. Our diplomacy with Russia will be severely impaired. As a result, even though we do not allow North Korea according to Mr. Lugar the matter of fact, to help them destroy chemical weapons—through reasons the world will find hard to understand, we will have denied the very treaty we have asked others to adhere to.

Let me say with all due respect to those who formulated the idea that we should not ratify the Chemical Weapons Convention unless the so-called rogue states—named as North Korea, Libya, Syria, Iran, and Iraq—join, must have really stayed up nights trying to think of some way to throw us off course. I presume they felt that our antipathy to some of these states would be such that we would say if they are not going to be a part of it, we ought not to go. Well, we ought to simply go after them in a unilateral way. Let me examine that for a moment, Mr. President.

The Senator from Delaware and the Senator from Massachusetts have talked about law, about legitimacy. As a matter of fact, our Nation does have the mobility to be an enforcer. In the event we feel our security is threatened, our President might, in fact, consider a military action against a nation that threatens our security threat to us. But let us examine the implications if our President decides to do this. If he is going to act unilaterally without benefit of international law—and international law does count because other nations understand the implications of that cooperation and the binding that brings—if we are going to contemplate solo strikes without benefit of international law, then we will have to think about overall rights, about the problem that our pilots if our aircrafts go down, as a number of implications in which we count upon cooperation of nation-states. International law does count. It makes a difference that there is a law against this, and that the United States acts with other nations and with their backing to enforce that, and that we shall have to do.

Much has been said about lack of military will or lack of political will, but, Mr. President, I have seen very little of that in this Chamber during this debate. We are serious about this.

Mr. President, let me add just as a topical matter, because the Members of the Senate who have been watching local television at least in the last half-hour appreciate that in northwest Washington, in the downtown area near the B’nai B’rith headquarters, a vial of chemical material or biological material is present that authorities of the police and fire department and special persons in the Washington, DC, area have now picked up this material, and people in the B’nai B’rith headquarters are being decontaminated. A suggestion is that it may be anthrax, a very deadly biological.

It was not long ago on this floor, Mr. President, that the Nunn-Lugar-Domenici Act was debated and we talked then in terms of attempting to bring Department of Defense biological weapons into play with the cities of this country—Washington DC, being prominent among them, Atlanta, GA, Denver, CO, and 23 other cities have been named—or in terms of attempting to stretch credibility really to the breaking point. These nations are irrelevant to our membership and our leadership. They are irrelevant to our standing for international law and our ability to act, and to act decisively. That must be our standard, Mr. President. With imagination, one will think of all sorts of hobs of goblins that can be thrown up to make an interesting debate, but debate is leadership, and debate is decisive political will, and the debate is our ability to convince other nations of the world they should come with us, that we are reliable, that we stay the course, that our word is good, administration after administration. If Mr. President, this is the reason we should vote to strike this amendment, this condition, from the convention immediately, decisively. It has been a point, clearly, a parliamentary procedure, and that our failure to do so, as a matter of fact, jeopardizes the entire treaty. It is impossibility. If it is impossible, our Nation would ever join, would ever follow through on our leadership, if we were to wait upon states
that are irrelevant to the whole proposition.

I conclude, Mr. President, by saying obviously, threats in those states are not relevant. We must be decisive. We need reassurance for international law, enhancement of our intelligence that the intrusive inspections and all of the trade accounts will give to us, so that when we strike, we will strike accurately and completely and bring the security of the world that this treaty attempts to promote.

Mr. HELMS. I yield such time as the Senator from Arizona may consume.

Mr. HELMS. I yield 12 minutes to the distinguished Senator from Oklahoma [Mr. INHOFE], following which I suggest we vote.

Mr. INHOFE. Thank you, Mr. President. I will probably not take the 12 minutes.

The Senator from Arizona is exactly right. I think even the strongest opponents of the ratification of the Chemical Weapons Convention have said this is not going to affect terrorist activities. Obviously, by the very title "terrorist" activities are not going to be completely in line with this.

I have to say I feel the same way about these countries that we are discussing right now. The condition which is under debate here at this time is whether or not to strike that portion with regard to Iran, Syria, Libya, North Korea, and China. It would be, if we were only concerned about those countries that have signed or have ratified or have expressed intention to ratify, that would be very nice, because we would be talking about Canada, the Fiji Islands, Costa Rica, and Singapore, Iceland. That is not where the threat is. The threat is to the rogue nations.

That is what we are talking about right now.

I will for a moment bring this up to date by quoting a couple of things. General Schwarzkopf, during a press conference in Riyadh, said:

"The nightmare scenario for all of us would have been to go through this [the Iraqi tank barrier], get hung up in this breach right here, and here artery from chemical weapons down on the troops that were in the gage in the breach right here."

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

The Senator from North Carolina has 4½ minutes remaining on the amendment.

Mr. HELMS. I thank the Senator for that explanation. I think it was very timely.

Mr. HELMS. I yield such time as the Senator from Arizona may consume.

Mr. HELMS. I yield such time as the Senator from Oklahoma may consume.

Mr. HELMS. I thank the Senator for that explanation. I think it was very timely.

General Hughes said:

"In any attack in the south, Pyongyang could use chemical weapons to confound U.S. forces deployed near the DMZ, suppress allied air power, and isolate the peninsula from strategic reinforcement."

Four days ago in a Seoul, North Korea, newspaper there was an article quoting very high North Korean officials as saying they now have adequate chemical weapons to attack South Korea. This is going on as we speak. So we are talking about nations that are not going to be our friends. These are the ones that, whether they are signatories, or whether they ratify or not, it doesn't make too much difference. It tickles me when they talk about, "Russia is going to do that." Last night, I was on a talk show and we finally agreed that on the 1990 Bilateral Destruction Agreement, they have been found in noncompliance of that, and of the START I, of the Conventional Forces in Europe. Even though my opponent denied it was the INF, in fact, they were. In the 1995 Arms Control Disarmament Agency report, it says that they were not in compliance with that; the ABM Treaty, they have not been in compliance with that.

But let's assume if a country like Russia doesn't comply when they ratify, what about these rogue nations? I can tell you for sure that those proponents of the ratification have gone to great length to make it look like—or to make us believe that the Reagan administration, if they were here today, would be in support of this Chemical Weapons Convention. I can assure you that they would not.

Coincidentally, I happened to be on a talk show—"Crossfire"—with a very fine gentlemen, Ken Adelman. He had been in the Reagan administration. We found out, after he gave his testimonial as to why we should ratify—and he admitted it was not verifiable nor is it global, but he still thought we should do it. Mr. Adelman is prejudiced by his membership on two boards of directors, the International Planning and Analysis Center and on Newmeyer and Associates. These companies, which he directs, have clients in many foreign countries, including China and Japan, and they represent companies that deal in chemicals such as those from the Upjohn Co. People say this is just chemicals. It is not just chemical companies we are talking about. In this chemical association that gets so much attention, it represents 192 chemical companies. These are the large ones, the giants. There are some 4,000 other companies, and you can expand it beyond purely chemical companies to some 8,000 other companies, most of whom are opposed to this, because they would be shut out in the competition.

I think the whole thing on this particular amendment is whether or not this would have any positive effect on the rogue nations if we should ratify
the Chemical Weapons Convention. I don't think there is anybody here who is so naive to think that, voluntarily, if they are a part of it, they would reduce their chemical behavior. I think those of us in this room can argue and debate the issue.

So I go back to the people who are the real authorities. You have heard Dick Cheney quoted several times on the floor, in his letter that we have quoted several times. He said, "Indeed some aspects of the present convention—its obligation to share with potential adversaries, like Iran, chemical manufacturing technology that can be used for military purposes in chemical defense equipment—threaten to make this accord worse than having no treaty at all." That is Dick Cheney, not some guy that read a couple of articles and determined it was wrong. What is he talking about? He is talking about something that will be debated here shortly, and we will get into that in more detail. Part of an article X. The technical secretariat shall establish not later than 180 days after entry into force of this treaty, and maintain for the use of any requesting state party, a data bank containing freely available information concerning various means of protection against chemical weapons, as well as such information as may be provided by states' parties."

Well, I can remember in the Armed Services Committee when Schwarzkopf was here, I did.

General, you are in support of the Chemical Weapons Convention. I read that, and then I will read a transcript, because I think everybody who might be basing their vote on what General Schwarzkopf said, here is a transcript from that meeting.

Senator INHOFE. Do you think it wise to share with countries like Iran our most advanced chemical defensive equipment and technology?

General SCHWARZKOPF. Our defensive capabilities?

Senator INHOFE. Yes.

General SCHWARZKOPF. Absolutely not.

Senator INHOFE. Well, I'm talking about sharing our advanced chemical defensive equipment and technologies, which I believe under article X (they) would be allowed to get.

General SCHWARZKOPF. As I said, Senator, I am not familiar with all the details—you know—you know, a country, particularly like Iran, I think we should share as little as possible with them in the way of our military capabilities.

I am not critical of General Schwarzkopf. It is a very complicated thing, I don't know how many people read the whole thing. I haven't, but I read enough to know, as far as our treatment with rogue nations, I would not want to be ratifying this contract unless they ratified it. Then I would not trust them any more than we would trust them and if they did not ratify, I question if they will honor it.

One of the other conditions we are going to talk about is, should we do it, should we put in a requirement that they would have to ratify before we will. Well, we had that requirement 2 years ago when I voted against the START II treaty. They said we have to do it before Russia because they won't ratify unless we do. Guess what, Mr. President, they still haven't ratified.

So I bring back to the urgency of this, former Secretary of Defense, J ames Schlesinger, said, "To the extent that others learn from international sharing of information on chemical warfare defenses, our vulnerability is diminished. Finally, this treaty in no way helps shield our soldiers from one of battlefield's deadliest killers. As indicated earlier, only the threat of effective retaliation provides such protection."

What he is saying is there is not that we would use chemical weapons, but by the fact that we are not a party to this treaty is one that would at least offer some type of a deterrent. So I think, Mr. President, you look and read of the hostility that is over there. James Woolsey said, in 1993:

"More than two dozen countries have programs to research or develop chemical weapons, and a number have stockpiled such weapons, including Libya, Iran and Iraq."

Three of the countries we are talking about: The military competition in the always volatile Middle East has spurred others in the region to develop chemical weapons. We have also noted a disturbing pattern of biological weapons development following closely on the heels of the development of chemical weapons.

Mr. President, the threat is there, and we know that other countries can sell their technology, as well as their systems, to rogue nations. We know Russia has done this, to specifically Iran and other nations, not when they sold their technology, but also their equipment. So it is a very scary thing to think that we might be putting our- selves in a position that would increase our exposure to the threat of chemical warfare and would increase the proliferation of chemical weapons in the Middle East. I yield the floor. The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I believe time has expired. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. If the Chair will refresh my memory, a motion to table is not in order, is that correct?

The PRESIDING OFFICER. All time would have to be yielded back on the amendment in order for a motion to table to be in order. The unanimous-consent agreement does not appear to preclude a motion to table.

Mr. HELMS. How much time remains, Mr. President?

The PRESIDING OFFICER. Currently, the Senator from North Carolina would have 4 minutes 27 seconds on the amendment. The Senator from Delaware would have 2 minutes 37 seconds.

Who yields time?

Mr. BIDEN. Mr. President, how much time remains for me?

The PRESIDING OFFICER. The Senator controls 2 minutes 37 seconds.

Mr. BIDEN. I yield myself the remaining time. I will speak to a couple of points. With regard to Ken Adelman, I am sure our colleague from Oklahoma didn't mean to impugn his motivation by suggesting for whom he worked. I would not suggest that of Mr. Rumsfeld because of where he works now, that it caused him to have that view. Ken Adelman—although I disagree with him most of the time, he was an able member of the administration. He was viewed as a hawk at the time he was here. For the record, I am sure there was no intention to do that? Mr. INHOFE. If the Senator will yield, I made it very clear before my remarks that I held him in the highest of esteem. However, the fact remains that he does work for those companies that have an interest, and that could be a conflict of interest. I think that could be drawn by anyone.

Mr. BIDEN. Mr. President, I think for making clear what he meant. I didn't think that's what he meant. I was hoping that is what he meant, but it is what he meant. That could be said about almost everybody who testified before our committee, for and against this treaty, and I would say frankly, I think that the leaders for and against this treaty in the last two administrations are men and women of integrity who would have no conflict. They are consistent with what they did within those administrations.

Let me point out a few things. It seems interesting to me that here we are, the very people—our very colleagues who want to have a provision saying that we want all these rogue nations in the treaty, argue in the alternative, that these nations in the treaty mean the treaty is worthless. Translated, very simply, they are not for this treaty under any circumstance, whether or not these nations are in the treaty or out of the treaty. I also point out that—in the interest of time, I will not be able to point it out in detail—every argument against this treaty made thus far on the floor today, I respectfully suggest, is made worse by not being in the treaty or having the treaty. I find it, quite frankly, interesting.

My time is up. I hope my colleague will not move to table. We agree not to attempt to amend any of these conditions. I hope we will have a vote up or down. Apparently, it is not in the agreement. If he chooses to do it, I guess he has the right.

Mr. HELMS. Mr. President, I shall not move to table. I will yield back such time as I may have.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to amendment No. 47.
The years and nays have been ordered.
The clerk will call the roll.
The assistant legislative clerk called the roll.
The result was announced—yeas 71, nays 29, as follows:

Abraham
Akaka
Baucus
Biden
Bingaman
Bond
Boxer
Breaux
Bryan
Bumpers
Byrd
Chafee
Cleland
Collins
Coats
Cooper
Craig
Burns
Brownback
Bennett
Ashcroft
Allard
Durbin
Daschle
Collins
Coats
Cleland
Byrd
Bumpers
Breaux
Boxer

The result was announced—yeas 71, nays 29.

The amendment (No. 47) was agreed to.
Mr. HELMS. Mr. President, I move to reconsider the vote.
Mr. BIDEN. I move to lay that motion on the table.
The motion to lay on the table was agreed to.
Mr. BIDEN addressed the Chair.
Mr. BIDEN. Parliamentary inquiry.
Mr. BIDEN. Parliamentary inquiry.

Mr. BIDEN. With your permission, Mr. President, I would like to make a statement.

Mr. BIDEN. Mr. President, the Chemical Weapons Convention in 1994.

I urge the Senate to give early and favorable consideration to the convention and to the advice and consent to its ratification as soon as possible in 1994.

Let me remind my colleagues that for the next 11 months, until the 103d Congress adjourned on December 1, 1994, the Senate majority leader was George Mitchell and the chairman of the Foreign Relations Committee was Claiborne Pell.

Despite Democratic control of the White House and the Senate, the Senate did not consider the Chemical Weapons Convention in 1994.

In late 1995, Senate Democrats began a filibuster on the State Department authorization bill to force action on the CWC. On December 1, 1995, an agreement was reached providing for the convention to be reported out of the Foreign Relations Committee by April 30, 1996. The Committee honored that agreement, and the convention was placed on the Executive Calendar.

That is where matters stood when I became majority leader on June 12, 1996. Only 6 days later, before I had a chance to get my sea legs at all, there began a filibuster once again by the Senate Democrats to force Senate action on the convention.

To allow critical national defense legislation to proceed, we worked with Senators on both sides of the aisle, and again we reached an agreement guaranteeing a vote by September 13, 1996.

In the weeks preceding the vote, opponents and proponents of the convention made their case to Senators. On September 6, 1996, I requested the declassification of certain key judgments of the intelligence community relating to key aspects of the convention. On September 10, the administration partially complied with that request, and certain intelligence judgments were made public. I asked the exchange of letters on the intelligence judgments be printed in the Record.

Mr. President, I understand the Government Printing Office estimates it will cost $1,288 to print these letters in the Record.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

As you know, the Senate is currently scheduled to consider the Convention on or before September 14, 1996 under a unanimous consent agreement reached on June 28, 1996.

Mr. President, I urge the Senate to give early and favorable consideration to the Convention.

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will make every effort to obtain from the admin-
istration such facts and documents as re-
quested by the Chairman and ranking mem-
mber of the Foreign Relations Committee, in
order to provide a full and hearing necessitated
to develop a complete record for the Senate
with regard to Senate Helms' most recent let-
ters, the President and I both personally
responded to Senate Helms' request on July 31,
and then again on August 13. These responses
included detailed attachments that answered a
series of specific questions asked by Sen-
ator Helms.

The Administration has repeatedly offered
to make relevant classified information
available to the Senate through classified
briefings and reports. I explained to Senator
Helms in my response to his most recent let-
ter that while I regret not being able to de-
classify the documents he requested, we
remained eager to brief the Senator and any of
his colleagues, as well as cleared staff, at the
ease of the Senate, both on those docu-
ments as well as on other concerns. Such a
briefing was provided to Senator Kyl but, to
date, Senator Helms has not responded to
these offers.

We have carefully reviewed your request
for declassification of the May 21, 1996, cable
written by ACDA Director Holum, the July
8, 1996, letter from Russian Prime Minister
Chernomyrdin and selected paragraphs from
the intelligence documents. I regret that we
cannot declassify the May 21, 1996, Holum
Cable or the letter from Russian Prime
Minister Chernomyrdin to Vice President
Gore because these documents have been properly classified under
E.O. 12958; they contain sensitive diplomatic
information regarding high-level, ongoing
negotiations, the disclosure of which may af-
fect our ability to negotiate in confidence. In
addition, the correspondence you requested
is between the highest levels of the United
States and Russian governments, and was
exchanged with the expectation that it
would be kept in the strictest confidence.

As you know, an essential element of the
Executive Branch's conduct of foreign relations is
the protection of the confidentiality of high
level, sensitive diplomatic discussions and
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After a careful review of the paragraphs
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mements.
As part of this continuing effort, I have attached a detailed response which includes the declassified material.

Sincerely,

ANTHONY LAKE,
Assistant to the President for National Security Affairs.

RESPONSES TO ISSUES RAISED BY MAJORITY LEADER LOTT

The issues addressed in the attachment to your letter concern chemical weapons proliferation challenges we must address, with or without the CWC. The CWC provides concrete measures to raise the costs and risks of engaging in CW-related activities. The CWC will also improve our knowledge about CW activities worldwide. This is why the administration strongly supports it by both President Bush and President Clinton.

Since the CWC was submitted to the Senate in 1993, the Intelligence Community has kept the Senate fully informed of its judgments regarding the Convention. During the past three years, the Intelligence Community has written a number of briefs and reports, testified in numerous public and executive session hearings, answered dozens of intelligence questions for the record, and provided a number of briefings on precisely the issues you raise in the attachment to your letter, as well as many others. Intelligence Community judgments on the CWC are consistent with Administration policy. In fact, Intelligence Community judgments play an integral role in the formulation of policy regarding the Chemical Weapons Convention. The following responses regarding the issues raised in the attachment to your letter may help clarify this.

1. NOVEL AGENTS

New chemicals of concern and novel agents are covered under the CWC; it is incorrect to assert that because an agent is not on the Schedules it is not subject to the CWC. The CWC captures new chemicals of concern and novel agents under the definition of a "chemical weapon" and prohibits the development, production, acquisition, stockpiling, retention, use and direct or indirect transfer of any chemical weapons. Concerns that new chemicals of concern and novel agents were being used to violate the CWC would be addressed under the verification and challenge inspection under Article X of the Convention. It would not be necessary to show that such chemicals are listed in the Schedules of the Convention to exercise this option.

Furthermore, the CWC explicitly provides for expanding the lists of chemicals subject to declaration and verification as new CW agents are identified and to improve verification procedures and equipment as new technology emerges and experience is gained. As regards our chemical defense capabilities, the Department of Defense Counterproliferation Program is, with Congress' support, aggressively pursuing an effective response to ensure that our troops are the best protected and best equipped fighting force for operations in a nuclear, biological, or chemical environment.

The National Defense Authorization Act for FY 94 led to the formation of the Joint National Biological and Chemical (NBC) Defense Board, the Joint Services Integration Group and the J joint Services Material Group. These boards, which have representatives from the Services, J joint Staff and OSD, are working to identify the needs of the Administration for chemical/biological defense and are providing input to the Defense Acquisition Board process through the Secretary of Defense.

The U.S. military is well aware that it may be called upon to operate in a hostile environment in which chemical weapons may be used or threatened to be used. Though U.S. chemical equipment is second to none, we understand the need to continually improve our capability. Through the Defense Acquisition Board process, the military is taking steps to ensure these improvements continue. The Administration's budget requests for our chemical defense programs is $505 million.

In this context, the following paragraph from NIE 96-98 of May 1995 is hereby declassified: "Prior to July 1993, every general statement on Russian CW concerns that had come to the intelligence community's attention was based on the agent's name as it appeared in the Schedules of the Convention. It would not be necessary to consider the agent as a potential CW threat until a decision had been made on whether it was on a schedule. The Russian Government has recently announced that it will accept the Schedules as it was signed in 1992, which means it likely will not require such a decision on every chemical it uses or may use.

In this context, the following paragraph from NIE 95-90 of May 1995 is hereby declassified: "President Yeltsin has publicly endorsed CW disarmament and supported ratification and implementation of CW arms control agreements to which Russia is a signatory. The extent to which Yeltsin has attempted to enforce this policy is not clear. He may not be aware of the scope of ongoing CW activities, or if he is aware, he may be unable to control them. We cannot exclude the possibility that Yeltsin approves or is aware of offensive CW capability and will support a covert program once the CWC enters into force. He may accept the military argument that CW is a viable CW capability. Moreover, being subjected to far more bureaucratic pressure to sustain the program than to do away with it, he may find it easier to give way to military arguments."

It should be noted, however, that detailed information on the views of key individuals and their possible limits on CW activities by providing States Parties with the new tools to pursue any concerns we may have about suspected CW activities, whether in Russia or any other State Party. As the Intelligence Community has testified, the CWC will provide us with access to information not heretofore available to us in our efforts to detect, deter and, if necessary, punish violations of the CWC.

Regarding the views of the Russian leadership, President Yeltsin and other senior government officials have repeatedly expressed support for the CWC. We will expect Russia and all other Parties to adhere to all the Convention's provisions including those concerning CW development and production. The Russian Government has recently reaffirmed its commitment to become an Original Party to the CWC and announced it is seeking speedy submission of the Convention to the Parliament for ratification.

In this context, the following paragraphs from NIE 93-32 of August 1993 are hereby declassified:

"In sum, what the Chemical Weapons Convention provides the Intelligence Community is a new tool to add to our collection tool kit. It is an instrument with broad applicability, which can help resolve a wide variety of problems. Moreover, it is an unambiguous test for non-signatories which can be used by diplomats and politicians, as well as intelligence specialists, to further a common goal: elimination of chemical weapons.

In this context, the following paragraphs from NIE 93-32 of August 1993 are hereby declassified:

The key provisions of the monitoring regime—challenge inspections at undeclared facilities, verification agreements to which Russia is a signatory, and the requirement to discover what states are developing and producing chemical weapons when these activities are difficult to distinguish from legitimate commercial endeavors. The isolation and adverse attention that nonsignatories will draw upon themselves may spur greater multinational cooperation in attempting to halt offensive CW programs.

The CWC will increase the difficulty for proliferators of acquiring chemical weapons and significantly improve our law enforcement ability to investigate imports and exports. Prior to the CWC, illegal shipments of CW agents and precursors were not subject to international agreements. Now, it is likely that CW agents and precursors will be discovered and enumerated by inspection.

The CWC will increase the difficulty for terrorists and proliferators of acquiring chemical weapons and significantly improve our counterterrorism ability to investigate suspicious shipments and locations. The CWC specifies the procedures for inspecting facilities of countries suspected of chemical weapons production, and the inspection machinery for this purpose will be expanded to cover CW production and stockpiling.
significant benefits in dealing with the threat of chemical terrorism. Implementing legislation will strengthen our legal authority to investigate and prosecute persons who commit such acts. Moreover, by making public more aware of the threat of chemical weapons and of the fact that the acquisition of such weapons is illegal, the following are among its significant benefits:

Investigation. The proposed U.S. implementing legislation contains the clearest, most comprehensive and internationally recognized definition of a chemical weapon available. This definition, when combined with implementing legislation, will enable an investigator to request a search warrant on the basis of reasonable suspicion of illegal chemical weapons activity (such as possessing chemical weapons agent), rather than suspicion of an attempt or conspiracy to use a weapon of mass destruction, as under current U.S. law. By providing law enforcement officials with an actionable legal basis for investigating the development, production, transfer or use of chemical weapons, the implementing legislation improves prospects for detection, early prosecution and possibly even prevention of chemical terrorism in the United States.

Penalties. Under the proposed U.S. implementing legislation, any person who knowingly engages in prohibited chemical-related activities (such as possessing chemicals) would be prohibited under the Convention. It would also be illegal under the CWC implementing legislation and thus would provide a sufficient basis for prosecution. Currently, prosecutors must rely on legislation intended for other purposes, such as a law against conspiracy to use a weapon of mass destruction.

Trade Controls. The proposed U.S. implementing legislation would also substantially strengthen existing export/import control laws and regulations by strictly controlling the import and export of those chemicals posing the greatest risk (listed in Schedule 1 of the CWC) and also regulating the production, acquisition, retention, transfer or use of such chemicals within the United States. These new penalties would make it more difficult and costly for terrorists to acquire CW by increasing the risk of detection, and thus would deny terrorists easy access to chemical weapons.

Emergency Authority. The proposed U.S. implementing legislation contains authority to seize, forfeit and destroy chemical weapons. This important provision protects the constitutional rights of property owners while allowing law enforcement officials to seize and destroy a chemical weapon under exigent circumstances (i.e., where harm is imminent). The implementing legislation provides an exceptional legal authority to prevent a potential catastrophe and save lives.

Public Awareness. Tips by concerned private citizens can save lives. The proposed implementing legislation makes property owners, while allowing law enforcement officials to seize and destroy a chemical weapon under exigent circumstances (i.e., where harm is imminent). The implementing legislation provides an exceptional legal authority to prevent a potential catastrophe and save lives.

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Public Awareness. Tips by concerned private citizens can save lives. The proposed implementing legislation makes property owners aware of the threat of chemical weapons and of the fact that the acquisition of such weapons is illegal.
Senate advice and consent is needed for their entry into force. Despite this clear position, your Administration continues to argue that Senate advice and consent is not necessary in the case of multilateralization, and refuses one among several options you might choose in the case of demarcation. This is unacceptable.

With specific reference to the Agreed Statement on Demarcation reached last summer, section 406 of the Department of State, Agencies Appropriations Act, 1997 (P.L. 104-208) prohibits expending funds on the Standing Consultative Commission unless the President provides to the Congress, containing a detailed analysis of whether * * * the Agreed Statement regarding Demarcation agreed to by the Standing Consultative Commission on June 24, 1996 * * * will require the advice and consent of the Senate of the United States." The report submitted on your behalf did not answer this question.

Finally, the May 31, 1996 Conventional Forces in Europe (CFE) Treaty agreement contains negotiated amendments and significant changes to the 1990 CFE Treaty. Yet, again your Administration has taken the legal position that Senate advice and consent is not necessary. Mr. President, I have pledged to work with you in a bipartisan fashion on a wide range of challenges facing our country. Nowhere is such cooperation more important than in foreign policy and national security. But bipartisanship requires a two-way street. Your Administration has now re-started a public campaign to gain Senate advice and consent for the Chemical Weapons Convention. As you seek bipartisan cooperation, you must understand our expectation for such cooperation on ABM multilateralization, ABM demarcation, and CFE flank limits.

Senate advice and consent arms control treaties after their negotiation and after their substantive modification is not an option—it is a requirement of our Constitution. I am sure you understand that it will be very difficult to explore the possibility of Senate action on the Chemical Weapons Convention without first addressing legitimate security and Constitutional concerns on other important arms control issues. I stand ready to work with you and your national security team on a comprehensive approach to arms control issues in the 105th Congress. With best wishes, I am, Sincerely, **Trent Lott**

**U.S. Senate, Office of the Majority Leader, Washington, D.C., March 18, 1997.**


Dear Mr. President: As you know, we have been working in good faith to try to establish a process under which the Senate might consider a resolution of ratification for the Chemical Weapons Convention (CWC).

As we consider the next steps in this process, I want to remind you of two problems that remain unresolved. First, on January 8, 1997, I wrote to you expressing concerns about your administration's approach to a number of critical arms control issues, including demarcation limits and multilateralization of the Anti-Ballistic Missile Treaty of 1972 (ABM Treaty) and about the failure of the last Administration to submit the Conventional Armed Forces in Europe Treaty of 1990 (CFE Treaty) to the Senate. To date, I have not received a response. Each of these significant treaty modifications are subject to the Constitution's shared treaty making power and, accordingly, cannot enter into force until receiving the advice and consent of the United States Senate.

Second, I have repeatedly pointed out that the CWC is currently under consideration by the Committee on Foreign Relations. Accordingly, it is essential that you and your administration honor the publicly-stated commitments to work closely and expeditiously on the submission of the CFE Treaty and the admission of new states to NATO will be affected through agreements that will be submitted for the advice and consent of the Senate. The situation and timing is therefore different from when the Administration submitted the CFE flank agreement for legislative action in August. Accordingly, the Administration is prepared, without prejudice to its legal position vis-a-vis the approval options we believe are available to us, to seek Senate advice and consent to the flank document provided the Senate act on this crucial matter before May 15.

MOU on ABM Succession

As noted in the President's November 25, 1996 report to Congress submitted in accordance with Section 406 of the FY 1997 State Appropriations Act (the "Livingston Report") and the MOU on ABM Succession (the "White House Report"), executive agreements recognizing the succession of new States to the treaty rights and obligations of the original states have traditionally not been treated as treaty amendments or new treaties requiring Senate advice and consent. Rather, they have been considered as the international law treating treaties, which is recognized as an exclusively Presidential function under the Constitution. The report elaborates the specific reasons why this conclusion applies in the case of the June 24, 1996 Memorandum of Understanding (MOU) on ABM Succession reached at ref between the United States, Russia, Ukraine, Belarus, and Kazakhstan in the Standing Consultative Commission (SCC). It also explains why the MOU does not constitute a substantive modification of the ABM Treaty.

In dealing with matters of succession, a key objective has been to reconstitute the original treaty arrangement as closely as possible. This was true with respect to the elaboration of the ad ref MOU as well and, accordingly, the MOU works to preserve the treaty rights and obligations of the successor states. We hope that the breakthrough on ABM/TMD demarcation achieved at the Helsinki Summit will set the stage for a meeting at which this important issue will be resolved. The Administration continues to believe that the agreement does not require the advice and consent of the Senate, or any other form of congressional approval, to enter into force.


Hon. Trent Lott, Majority Leader, U.S. Senate, The White House, Washington, D.C.

Dear Mr. Leader: During Senate ratification proceedings on the Chemical Weapons Convention (CWC), concerns have been raised on Article X, which provides for certain types of defensive assistance in the event that a State that has joined the treaty and renounced any chemical weapons (CW) capability is threatened with or suffers a chemical weapons attack, and Article XI, which encourages free trade in non-prohibited chemicals among states that adhere to the CWC. Some have suggested that these Article XI, which provides for certain types of defensive assistance in the event that a State that has joined the treaty and renounced any chemical weapons (CW) capability is threatened with or suffers a chemical weapons attack, and Article XI, which encourages free trade in non-prohibited chemicals among states that adhere to the CWC. Some have suggested that these Articles could result in the CWC promoting, rather than stemming, CW proliferation despite States Parties' general obligation under Article I to "*abandon the production of all types of chemical arms, to cease [[circumstances . . . to assist, encourage or induce, in any way, anyone to engage in any*
activity prohibited to a State Party under Article I by: prohibiting the United States under Article X from (a) providing the CWC organization with funds that could be used for chemical weapons defense assistance to other States Parties; and (b) giving certain states that might join the treaty any assistance or assistance facilities that would not be available to all participants; and requiring the President to (a) certify that the CWC will not weaken the export controls established by the Australia Group and that the Group intends to maintain such controls; (b) block any attempt within the Group to adopt a contrary position; and (c) report annually to the Congress that the Australia Group controls remain effective.

With respect to the latter condition, I am pleased to inform you that we have received official confirmations from the highest diplomatic levels in each of the 30 Australia Group nations that they agree that the Group control and nonproliferation measures are compatible with the CWC and that they are committed to maintain such controls in the future.

While these guarantees and safeguards, you expressed the concern on Sunday that nations might still try to use Article X or XI to take actions that could undercut U.S. national security interests, notwithstanding the best efforts of U.S. diplomacy to prevent such actions. I am, therefore, to provide the following specific assurance related to these two Articles:

In the event that a State Party or States Parties to the Convention act contrary to the obligations under Article I by:

(A) using Article X to provide defensive CW equipment, material or information to another State Party that could result in U.S. chemical protective equipment being compromised so that U.S. warfighting capabilities in a nuclear environment are significantly degraded;

(B) using Article XI to justify chemical transfers that would make it impossible for me to certify under Section 114 of the CWC that the Australia Group remains a viable and effective mechanism for controlling CW proliferation;

or

(C) carrying out transfers or exchanges under either Article X or XI which jeopardize U.S. national security by promoting CW proliferation;

I would, consistent with Article XVI of the CWC, regard such actions as extraordinary events that would jeopardize the supreme interests of the United States and therefore, in consultation with the Congress, be prepared to withdraw from the treaty.

Sincerely,

BILL CLINTON

Mr. LOTT. On September 12, the day the Senate was scheduled to begin debate on the convention, Secretary of State Christopher called me and asked that the vote be canceled. I quizzed him. I was sure I knew what the administration was asking and that I would be able to come out to the floor of the Senate and explain that is why it was being done. It was canceled because it was clear, in my opinion, that the Senate was ready to vote and that a vote was likely to be rejected at that time by the Senate.

I acceded to the Secretary's request. We canceled the vote, and it went back to the Foreign Relations Committee calendar at the end of the 104th Congress.

In January of this year, the President and his national security advisers made it clear that the Chemical Weapons Convention remained a top priority of our foreign policy. The President explained that several of our arms control priorities, including the submission of three significant treaty modifications for advice and consent: The ABM Demarcation Agreement, the ABM Management Agreement, and the flank agreement to the Conventional Forces in Europe Treaty. The administration had previously refused to submit these treaties for Senate ratification.

I wrote at that time: Bipartisanship is a two-way street. Your administration has now restarted a public campaign to gain Senate advice and consent for the Chemical Weapons Convention. As a bipartisan country, you must understand our expectation for such cooperation on ABM multilateralization, ABM demarcation and CFE flank limits.

On March 18, I again wrote the President reminding him that we had not received a response to my January 8 letter. I also pointed out that: "It is essential that you and your administration honor the publicly stated commitments to work closely and expeditiously with Chairman Helms on issues before the committee, including the presentation of a plan to reorganize the U.S. foreign affairs agencies."

From the beginning of the 105th Congress, I made clear as best I could to all who would listen in the administration that bipartisanship could not mean forcing the Senate into acting on administration-chosen priorities if we did not likewise have an opportunity to consider issues that are important to the Senate, in fact, issues we think have long since been sent to us for action with regard to arms control treaties.

We stated that we thought it was vital that we get Senate reorganization and real reform at the United Nations. This was not a quid pro quo but a simple statement of reality. Working in a cooperative fashion, as we must, means that both sides have to be forthcoming on issues in these foreign policy very important, critical areas.

Let me briefly review the status of each of these three related issues. On the arms control treaties, the administration did reconsider their positions very carefully and they came back and agreed to send the Conventional Forces in Europe (CFE) Agreement to the Senate for advice and consent. Hearings have already been scheduled on this treaty, and I expect a resolution of ratification to be before the full Senate in the near future. President Clinton agreed to submit the agreed statement of interpretation of the ABM Treaty. This treaty, agreed to in principle between Presidents Clinton and Yeltsin at the Helsinki summit, will provide the Senate an opportunity to consider the administration's approach toward negotiating constraints on our defensive systems pursuant to the administration's interpretation of the ABM Treaty. I am sure we will have quite an interesting and lively debate about what we should take advantage of our responsibilities to do just that. Along with many of my colleagues, I have expressed grave doubts about the wisdom of this administration's approach in that area.

The President still does not agree that they should send forward the treaties dealing with multilateralization. We think the Constitution requires it; his lawyers disagree. We will continue to press the administration to accept our position in this area, and they under\ oppose we should keep talking about it.

If this provision is contained in the final agreement that is submitted to the Senate for advice and consent in connection with demarcation, it will give us an opportunity to debate it.

On U.N. reform, our now Secretary of State Madeleine Albright asked that we begin to actually meet and talk about U.N. reform; that we meet with a U.N. president; that he come and visit with us. He did. We have started a process between the House and the Senate that involves the democrats, our chairmen and ranking members, to take a look at what should be done with regard to the arrearages we may or may not owe, how can we deal with the U.S. assessment at the United Nations that could be fairer, and we are working from a comprehensive Republican document as a basis for the discussions. I think we see some action already occurring. The Secretary General has been working at it, and I think he understands we are very serious about it. U.N. reform.

On State Department reorganization, I am very pleased that the administration has proposed, I think, some major changes. Chairman Helms, and many others, have worked to streamline our foreign policy bureaucracy, and now it looks like we are going to have a chance to do that.

The Agency for International Development, the Arms Control and Disarmament Agency and the U.S. Information Agency were started and organized during the cold war. Barely more than a year ago, President Clinton vetoed a bill which would have mandated the dismantling of only one foreign affairs agency. Last week, however, thanks to the efforts of Secretary of State Madeleine Albright and the involvement of the President, the President agreed to abolish both the USIA and ACDA and to fold many of AID's functions into the State Department. This will make our science resources go further, increase our efforts to ensure American interests, not bureaucratic interests, are behind our foreign policy decisionmaking.

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On each of these parallel issues—and I call them parallel, that is the way they have always been discussed—we have made progress. I think it is important that we realize that. Thanks to the persistence of the chairman and thank you, Mr. Chairman, for the statement that it is working with us now, we have made progress with U.N. reform, with State Department reorganization, and the fact we will be able to consider these treaties. No serious observer can claim that we have not moved forward in these areas.

There have been important changes in the Chemical Weapons Convention over the past few months. Last September, I worked closely with Senators Helms, Ky, and others in opposition to the treaty. Had we not canceled the vote, I would have voted against it, and I believe that it would have failed.

In the aftermath of that debate, some in the White House blamed political motivations. The President said it was partisan politics involving America's security. But, fortunately, calmer heads have prevailed this year. The administration did come to the table and they are engaged with us. We recognize the legitimate concerns that were ignored last year. So we have engaged in a process of member-and-staff-level discussions that have had a major impact on this convention.

There are 28 agreed items in this resolution of ratification that were not there last September. Senator KYL, Senator HELMS, and Senator BIDEN have been working together on this. They reached agreements. Some of them were negotiated with us. They recognize these legitimate concerns that were ignored last year. So we have engaged in a process of member- and staff-level discussions that have had a major impact on this convention.

Although I have signed on to my colleagues' amendments, I do not have confidence that the resolution of ratification drafted by Senator KYL is the right standard. I believe the Senate should retain the verification standard that we have had for years. The acquisition of chemical weapons by states like Syria and Iran is of increasing concern to the United States. As we are working with these nations on nonproliferation, I believe we should have confidence that we will be able to detect the acquisition of these weapons.

Finally, there is the most serious question of articles X and XI, whether these changes addresses concerns raised by treaty opponents last year and addresses my own concerns. In addition, the Senate is considering this convention in a manner agreed to by all 100 Senators. We first considered, and passed, as I said earlier, S. 495, the Chemical and Biological Weapons Threat Reduction Act of 1997 sponsored by Senator KYL. We are considering the resolution of ratification drafted by Senator KYL. Think about that. We are considering the resolution of ratification that he drafted and that he had in the committee. That is what we brought to the floor, and the process requires that motions to strike be offered to take provisions out. Much progress has been made, and many senators have been cooperative.

But there should be no mistake, serious problems remain with this convention. Unfortunately, key protections in the convention of ratification may be stricken out in our debate today, and we will have some more votes in a few minutes.

Condition 33 on verification requires the President to certify the same verification standard developed under the Reagan-Bush administrations—high confidence in detecting militarily significant violations in a timely manner. Detecting the production and stockpiling of chemical weapons may be more difficult than detecting the existence, obviously, of nuclear-armed warheads.

But I will vote to retain the verification standard that has served our country well in previous arms control agreements. I understand why my colleagues might not agree with that and they might vote in a way that would lower this verification standard, but it is a serious problem.

Condition 30, which we just voted on, I think should have been kept in the document. Condition 29 conditions U.S. participation in the convention upon demobilization and destruction of the largest chemical weapons arsenal on Earth—Russia. Russia has not implemented the Bilateral Destruction Agreement signed in 1990. Russia has not submitted accurate data on chemical weapons. That is a real concern, and I have reason to believe they are devoting resources now to develop new chemical agents which are outside the scope of CWC. I support retaining this condition because I believe it makes sense to expect all states to live up to past agreements before entering into new ones.

I strongly support condition 31 which would require the President to exercise the powers—given in the verification document—to the fullest to conduct inspections from terrorist states and from states which have violated U.S. proliferation law, particularly, I hope and think that we can defeat the motion to strike here. It is not a killer amendment, but it would ensure the right to bar those inspectors.

Finally, there is the most serious question of articles X and XI, whether...
these provisions on information sharing will increase the likelihood of, in fact, chemical weapons proliferation. Over the past few weeks, I made it clear to the administration as best I could that the legitimate concerns about the scope of article X and its effect on our ability to address chemical weapons proliferation will have to be addressed more than what was in the condition. I support delaying our ratification until the CWC is renegotiated to deal with these articles. For obvious reasons, the administration does not want to do that, and probably the majority of the Senate would not want to do that.

But this very morning, I received a letter from President Clinton which I think is significant. The President made specific assurances that the United States would exercise its right to withdraw from the convention if any one of the three things occurred: If countries used “article X to justify providing defensive chemical weapons equipment, material, or information to another country that could result in U.S. chemical protective equipment being compromised...”

If countries use article XI to justify chemical transfers which undermine the Australia Group.

If countries employed “out transfers or exchanges under either article X and XI which jeopardize U.S. national security by promoting chemical weapons proliferation.”

These are specific and probably unprecedented. Yes, it is a letter. It is not in the document, but it is signed by the President of the United States in a very strong language, that, frankly, I was pleased but somewhat surprised that he agreed to say, I will withdraw after consultation with the Senate. If any one of these things happen, he is the President and his assurances in foreign policy must make a difference. They address countries even justifying transfers where there is concern. They address areas which promote chemical weapons proliferation.

Mr. President, I think this is a very important document. I have made that letter available to my colleagues. I have more copies.

Every Member has struggled with one fundamental question: Are we better off with or without the convention? In my mind, there is no easy answer. I want to know that my children and our country will be better off, and that we will be better able to deal with chemical weapons with it, but I have my doubts.

Experts, whose opinions I respect deeply, are divided on the question. Over the last 2 weeks, I have had many conversations to discuss this convention. I spoke with President Bush and Ford. I talked with my good friend, former Secretary of Defense Dick Cheney, former Secretary of Defense Weinberger, Steve Forbes, former Secretary of State Colin Powell, Ronald Reagan, all uniformed military officers—a great variety of people. I met with leaders of groups that are deeply opposed and well informed about the treaty’s flaws. I talked with President Clinton, Secretary Albright, and Joint Chiefs of Staff Chairman Shalikashvili.

Republican Senators, with long experience in national security matters, are more likely to view the treaty as something people can and do disagree, and reasonable people will vote on opposite sides.

After our negotiations, hearings, and discussions, it is time to make decisions—decisions that will be important to the future of our men and women in uniform and the future security of our country.

I have decided to vote in support of the Senate giving its advice and consent to the Chemical Weapons Convention. I will do so not because I believe it will end the threat posed by chemical weapons or rid the world of poison gas. I will do so not because I believe this treaty is verifiable enough or even enforceable enough. And I will not do so because I believe there are no additional problems, concerns related to articles X and XI.

I will vote for the convention because I believe there will be real and lasting consequences to the United States if we do not ratify the convention. In a very real sense, the credibility of commitments made by two Presidents of our country—one Republican and one Democrat—is at stake.

I will vote for the convention because I believe the judgment of the senior former and current military commanders be who believe it will make our soldiers, sailors, airmen, and marines more safe in potential battlefields and less likely to face the horrible prospect of chemical weapons.

I will vote for the convention because I believe the United States is marginally better off with it than without it. It will provide new tools to press signatories for compliance. It will enable us to gain access to sites and information we are currently unable to examine.

Through the important and enlightening debate we have had over the past few months, I am convinced the convention will bring new focus and energy to this administration’s non-proliferation efforts. We have certainly heightened the awareness and knowledge of the concerns we have. A year ago, few of us even knew about the Australia Group. Now we have committed ourselves and the administration to doing more to keep the Australia Group as a viable tool to limit access to chemicals and technology.

Yes, the CWC may give legal cover to proliferators in Teheran or in Beijing. But they have undertaken such efforts in the past and no doubt will do it again in the future.

I believe our allies in Europe are more likely to join with us in isolating Iran if we are a party to this convention than if we reject it tonight. They have made clear that they hope we will ratify it, whether it is Canada or whether it is Britain or our European allies or Japan.

I believe this convention will increase the cost of covert chemical weapons programs, and it will increase our chances of detecting such programs.

I think there is a long list of good reasons why we should do this today. I have struggled with it. I would like to take just a minute, if I can, to talk on a personal note.

Many people in the media have tended to say, well, you know, this is going to determine the fate of various and unprecedented. Yes, it is a letter. It is not ratified until the CWC is renegotiated. Whether it is Britain or our European one. Not one of them—not one of them—has said that they would vote on it on any basis other than what is best for our country.

The way the Senate works, we debate these issues—we read, we study, we argue, we go back and forth. We set up a fair process, and then we come to a conclusion. We make a decision. We vote. And I do not think it is fair to exaggerate any one Senator’s role in this whole effort.

I think the Senate should be complimented today for the way it has handled this. I think that Madison, and every Senator, placed their faith in this institution. And I think it has worked well. The efforts of Senator HELMS and Senator KYL have been heroic. They have done a magnificent job. Others that have supported the convention have done their part well.

I think that this process has helped the Senate as an institution to exercise the leadership assigned to it by the Constitution. And that, I submit, is the only real test of leadership that truly matters.

I urge the adoption and ratification of this treaty.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I suggest the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. We have a small difficulty which can be remedied in short order. Without going into a great deal of detail, we are trying to adjust the time back to have accommodated the majority leader and his remarks.

So I ask unanimous consent that—how much time did we agree to?

Mr. BIDEN. That the remaining time that the chairmen have be 35 minutes, the remaining time under the control for the Senator from Delaware be 15 minutes, and I believe Senator LEAHY has 20 minutes anyway, and that be the reality.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.
The PRESIDING OFFICER. Who seeks time?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. How many minutes?

Mr. BURNS. Ten or less.

Mr. HELMS. Ten minutes.

Mr. BURNS. Or less.

Mr. HELMS. I yield 10 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized for 10 minutes.

Mr. BURNS. Mr. President, I thank the Senator from Montana, the chairman of the Senate Foreign Relations Committee.

History has to be recorded that this has probably been the most ever-changing and cloudy situation that we have faced here in the U.S. Senate. Some in this body have changed their minds as they have tried to read the public opinion polls, and even some of those who have served in the administration have done the same. This history, as it was articulated here by the majority leader, of getting caught up in presidential politics in 1996.

But basically what it was, it was most of us sitting down and reading the words and trying to make a decision based on what we think is best for our country. No matter the winds that blow in politics or in public opinion, this issue must be considered and decided on its merits. There is just too much at stake. The President has written a letter to the majority leader. If you will read the words real carefully, you could even say you could argue both sides of the issue on that letter alone.

But I rise today to express my opposition to this Chemical Weapons Convention treaty.

There are several reasons why I have chosen to oppose the treaty. Some would say that it is verifiable. I am not fully convinced of that, yet. Some would say it does not hinder or break the Constitution. I think I would question that. When it comes to sovereignty of the United States, I would say that very much was in jeopardy. However, I will focus my concerns with article XI and my fears that this article will compromise both the United States and the citizens that live here.

Article XI of the Chemical Weapons Convention treaty prohibits countries from denying others access to dual-use chemicals and chemical processes that can be used in any manner—processes, and technology. In effect, mandating access to and sharing of materials and the methods of making chemical weapons. By legitimizing commerce in dangerous dual-use chemicals, the treaty right will be used by countries such as China, India, and Russia to override Western objections to their production of sensitive chemicals and production technologies to countries such as Iran and India already supply Iran with such chemicals, but allow these countries to expand the volume of commerce conducted in dual-use chemicals.

Mr. President, I take a moment to focus on the fact that by ratifying this treaty we are extending the ability to obtain chemical information from other rogue nations. If ratified, we are allowing a nation that we have confirmed, we have confirmed as a terrorist state that it is the primary suspect in numerous terrorist attacks against the United States, and one that calls for the destruction of this country to get more information, not less, on deadly chemicals.

How many in this body think that if allowed this information, Iran will, of its own accord, destroy these potentially deadly weapons and not use them against United States citizens around the world? I think that is a legitimate question. How many in this body really think that the United States will be in a more secure position? Finally, how can we in clear conscience give them this information when American men and women have been murdered by terrorists?

Mr. President, for this reason, I cannot vote for the passage of this treaty.

I have heard all the reasons why I would be just a tiny bit better off being part of the convention. Well, this Senator is not that big a part. It falsely promisest security to our Nation, and would betray those U.S. citizens who have died by the hand of terrorists. I urge my fellow colleagues to contemplate what I have stated here. I urge a "no" vote on ratification of this treaty. This is not an easy decision but is a decision where the majority of people in this body have read and have made their decision on what is actually in it and not the emotion of the times. I urge them to read it and vote accordingly. I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I yield to the Senator from Oklahoma.

PRIVILEGE OF THE FLOOR.

Mr. INHOFE. Mr. President, I ask unanimous consent that Jeff Severs be permitted privileges of the floor for the duration of the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 48

(Purpose: To strike condition no. 29, relating to Russian elimination of chemical weapons)

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 48.

Beginning on page 61, strike line 21 and all that follows through line 7 of page 63.

Mr. BIDEN. Mr. President, this amendment strikes condition 29. I will speak to this in a moment, but I yield the balance of the 15 minutes that I promised as control as my friend from Indiana desires to discuss this.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUHAG. Mr. President, I thank the Chair and thank the distinguished Senator from Delaware. The condition that we move to strike, condition 29, would prohibit the United States from ratifying the Chemical Weapons Convention until the President certifies that Russia has done the following:

Ratified the CWC, complied with the 1990 bilateral destruction agreement, fulfilled its obligations under the 1989 Wyoming memorandum of understanding, and ceased all chemical weapons activity.

Mr. President, two arguments against this condition prevailed, at least on the last vote that we had. I cite the first important argument is simply that this is a killer amendment. Senators need to know that a vote to leave this in the convention effectively terminates the convention. Senators cannot have it both ways.

I simply indicate, in his very important statement, the majority leader, Senator Lott, referencing a particular condition that he found appealing, indicated it was not a killer amendment. But, in fact, this one is a killer amendment. Therefore, there is a crucial reason to vote to strike it.

Second, Mr. President, once again we are talking about America's leadership. It is in our interest, clearly, to get Russia's attention to the chemical weapons problem. We have decided unilaterally in this country that chemical weapons are not useful to us in our defense, largely because we cannot necessarily guard our own troops against the fallout and against the problems they create. So we are destroying them.

Russia always had greater stocks than we have. They still do. It has been in our interest to work with the Russians. In the Cooperative Threat Reduction Act, so-called Nunn-Lugar-Domenici Act, we have worked with the
Russians in a first instance to assist them in the techniques of destroying chemical weapons in Russia. There are seven very large sites that need to be dealt with. We are dealing now with the Russians at the first.

Mr. President, I speak today from a personal experience of last October when it was my privilege to accompany the then Secretary of Defense, William Perry, and my colleagues Senator Sam Nunn and Senator Joe Lieberman, in a visit to Russia, specifically to the Defense Department of Russia and to military persons involved in weapons of mass destruction. Perhaps equally importantly, Mr. President, it was my privilege to go with my colleagues from America to the Russian Duma. On that particular day, our first attempt was to attempt to gain some understanding by members of the Duma about the importance of the START II treaty and its ratification. While we were there, we were visited with the relevant Russian, comparable to our Foreign Relations and our Armed Services Committee about the Chemical Weapons Convention.

The Russians—in what we characterize as the executive branch, the legislative branch, the Duma—made identical points to us, that the START II treaty was coupled in consideration with the expansion of NATO. They said this is a political issue. These two are joined together.

With regard to the Chemical Weapons Convention, they made the clear distinction that it was not political, it was not involved with either NATO or START II or other arrangements. As a matter of fact, they perceived it was in the interests of Russia to ratify the treaty. They also pointed out that Russia has very little money, that at this particular point in history Russian taxes are not being paid with regularity. They simply were curious as to whether President Yeltsin would do anything possible, and they recognize, as do most Senators, that this convention is unlikely to get that job done very swiftly but they do recognize it is an advance, it is a constructive step. To read the letter from President Ford, they have some delay because we are waiting for Russia, or hoping that two agreements that are specified in the condition might somehow come to fulfillment to be is to miss the point of the leadership that is involved and the persuasion we must have.

Mr. President, I believe it is important, as soon as we ratify this convention, for the President of the United States to press on President Yeltsin his responsibility to gain ratification. At the Helsinki summit meeting recently, President Yeltsin assured our President he would offer that leadership. He assured our President he understood the responsibility of the Russian. He also asked our President to do his duty to help get the job done here. In fairness, our President has been fulfilling that responsibility, as did Senator Dole yesterday, as have President Bush and Mr. President, I believe it is important that Presidents who understand, and as the majority leader understands. In his statement today, he mentioned one reason for voting for this treaty is the fact that two Republican administrations have made a commitment. An American word means something. Our leadership has continuity and staying power. It does not flip one way or another, depending upon expediency.

Mr. President, I simply say, once again, American leadership is at stake. We are looking at a killer amendment. This condition must be struck. I ask Senators to vote aye when the roll is called.

I thank the Chair.

Mr. HELMS. Mr. President, before I plead on this amendment, I have been around this place for quite a while. Before I came to the Senate as a Senator, I had the honor of serving with two Senators as administrative assistant. Time after time, at the conclusion of long arduous debate and votes on various issues, a paring of thank you is delivered to the people who did most of the work. I talked to Senator Biden and told him I want to do it now before we begin to sign off. He suggested that I go first.

Admiral Nance, sitting back there, with the white hair, that young man, he and I were boyhood friends back in Monroe. Adm. James W. Nance, the chief of staff of the Foreign Relations Committee; Tom Kleck; Mark Thiesen; the foreign policy of Marshall, to legislating, particularly Marcia, Billingslea, Coleen Noonan; Beth Wilson, and the rest of the Foreign Relations Committee staff.

Senator Kyl has three remarkable young people: David Stephens, John Rood, and Janeen Espener. Senator Craig has Yvonne Bartoli and Jim Jatars.

I want to thank, in particular, some people from the outside who helped enormously in our trying to build a case to protect the American people from the extravagances of this treaty. But that is neither here nor there, but I want to thank those four great former Secretaries of Defense who came up—Dick Cheney; Donald Rumsfeld; James Schlesinger; the marvelous Jenee Kirkpatrick; Steve Forbes, who came down from New York; Richard Perle; Frank Gaffney; Doug Feith, and Fred Clay. I also want to include the retired flag and general officers.

I know that when I am driving home in a few hours from now, I will think of others. J ust speaking for all of us, I want to thank them all. I know Senator Dole wants to do the same thing on his side.

I yield the floor.

Mr. BIDEN. Mr. President, I thank the chairman. I apologize because I have a gauntlet to run. Although it is a very good idea to do it now, I was preparing to do it later, so I may leave somebody out, and I may amend this.

Let me begin by thanking a young man, who came over from my personal staff, the Foreign Relations Committee, and I think maybe Mr. Billingslea may have thought he was his cousin, they spent so much time together in the last couple of months, and that is Puneet Talwar. He has done a great deal of the heavy lifting for me on this, along with Ed Levine, from the Intelligence Committee, who is now working with me. Ed Hall, the minority staff director; John Lis; the young man—well, he has been with me so long that he is getting old—Brian McKeon, who has been with us for some time, for the minority. Frank Januzzi; Dawn Ratliff; Kathi Taylor; Ursula McManus, who we kept up late at night writing memos and other things on our behalf; Casey Adams; Bill Ashworth, a former long-time staff member of the Foreign Relations Committee and Senator Pell's staff; Fred Clay, who worked with me on the Intelligence Committee; Mary Santos; Kimberly Burns; Jennette Murphy; Larry Stein; Randy DeValk; Sheila Murphy, all leadership staff persons who have worked with me.

I have left out some, but I will augment this with the staff members of the Intelligence Committee, the Appropriations Committee, the Judiciary Committee, and the Armed Services Committee. They all played major roles.

The hearings that the distinguished chairman had on this treaty this time around were, I think, among the best proceedings of the Senate. I always agree with the witnesses that I have participated in over my 25 years. The cast of characters were the luminaries of previous administrations, as well as
this administration. We had the who’s who of the foreign policy establishment, literally. These people were particularly helpful to me, which is going to sound strange. He was up in the gallery, but I am referring to General and former Senator [Mr. KYL] for whatever time he may require. The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I will, at a later time, join in thanking the various staff and other people who have been so useful in ensuring a good debate. I think the Senate has gotten very serious about this matter. As the majority leader said earlier, as a result of the application of various Members of the Senate, a great deal of progress has been made in trying to bring the sides closer together in getting a treaty that, if it is entered into, will be more in the interest of the United States than as originally submitted.

There are a couple of important conditions, however, in the resolution of ratification which we believe ought to be a part of this treaty before the President submits those articles for ratification, signifying the U.S. entry into the treaty. One of the most important is the one before us at this moment. There is a motion to strike this condition from the resolution of ratification. We believe that this condition should remain. As the majority leader earlier said, she believes this condition should remain. Here is what it provides: Prior to depositing the U.S. instrument of ratification, the President must certify four things: First, that Russia is making reasonable progress on implementing the 1990 bilateral destruction agreement entered into between the United States and Russia. Second, that outstanding compliance related to the 1999 Wyoming memorandum of understanding has been resolved to U.S. satisfaction. Third, that Russia has deposited its articles of ratification of the conventional weapons agreement. Fourth, that it is committed to foregoing any weapons development.

Those are four important conditions, if our partner, Russia, and the United States are to effectively utilize the Chemical Weapons Convention. The reason is, first of all, because Russia is the world’s largest possessor of chemical weapons. It has anywhere from 60 to 70 percent of the world’s chemical weapons. For the Chemical Weapons Convention to be global, in the sense that it covers the weapons, and to be effective, it should involve the country with the largest inventory of chemical weapons.

Now, Russia has signed the Chemical Weapons Convention, but has indicated that it will not ratify, at least at this time and, as a matter of fact, in a communication to the Vice President of the United States, one of the Russian leaders indicated that the best outcome of this convention as a step toward curbing the menace of chemical weapons.

Mr. HELMS. What is the pending business, Mr. President?
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and, therefore, said that it would be integral to Russian entry that the United States entered first, which is what we are about to do.

I think these four commitments by Russia are integral to the success of the Chemical Weapons Convention. If we are to have a truly global ban. That is why this condition 29 should remain a part of the resolution of ratification.

Quickly, to the four points: First, reasonable progress in implementing the 1990 Bilateral Destruction Agreement Reasonable progress simply means that we are continuing to work on complying with it. That is what the Russians agreed to do when they entered into this agreement in June 1990. This is an agreement between President Bush and President Gorbachev.

By the way, when proponents of this treaty speak of it as a Reagan-Bush-Clinton treaty, I point out the fact that the treaty was different in the Reagan and early Bush years than it is now. The underpinnings of the treaty was that this bilateral destruction agreement between Russia and the United States would be in place and would be enforced and would be complied with by the two parties. This agreement was specifically designed to ban the production of chemical weapons, their agents, the destruction of chemical weapons agents, to provide for onsite inspections of CW facilities, and require data declarations.

The Bilateral Destruction Agreement is central to the CWC before us today. Without it the Chemical Weapons Convention is a much weaker treaty than it would otherwise be. The CWC was negotiated with the assumption that the United States and Russia would both destroy and verify destruction of their stockpiles under the Bilateral Destruction Agreement. But Russia has not implemented the Bilateral Destruction Agreement, and it appears that they have no intention of doing so.

Russian Prime Minister Chernomyrdin, in this letter to Vice President Gore that I mentioned before, essentially stated that the Bilateral Destruction Agreement and the 1999 Wyoming Memorandum of Understanding have outlived their usefulness as far as Russia is concerned.

The Chemical Weapons Convention before us today is no substitute for the Bilateral Destruction Agreement. Under the Bilateral Destruction Agreement, the inspectors of Russian facilities would not be international inspectors. They would be U.S. professional inspectors, and there would be more frequent inspections. The United States would have guaranteed access to data declarations, one of which would be the case under the CWC.

So it is important that Russia at least indicate to us that it is making reasonable progress to implement the BDA before we enter into force CWC.

Second, the resolution says there should be compliance with the 1989 Wyoming Memorandum of Understanding. Without getting into a lot of detail, I will simply note that this memorandum of understanding was essentially an agreement between the two states that we would exchange data on how much chemical weapons we had and to provide the information on the status for binary weapons programs.

To me, the most important condition of this agreement, the United States has given information to the Russians. Russia declared a 40,000 metric ton agent stockpile. However, present reports and other information allude that the Defense Intelligence Agency has estimated former Soviet Union—now Russian—stockpile could be as large as 75,000 tons. Russia has refused to provide information on the status of its binary weapons program. And, according to the former Director of Central Intelligence Jim Woolsey, ‘The data we have received from Russia makes no reference to binary chemical weapons or agents. That is contrary to our understanding of the program that was initialed in the former Soviet Union’s’.

There are additional indications of activity on the part of the Russians, all of which suggest that they are not in compliance with this 1989 memorandum of understanding.

Fourthly, Russian ratification of the CWC is central to the meaning of the CWC before us today. By saying that this condition 29 should remain in the resolution of ratification.

Third, we want the Russians to ratify this treaty at the same time that we do. That is what they want to do. We believe that will be a preferable course over the United States entering into the treaty causing the Russians to be concerned that we would set up the rules of the treaty, in effect, in a way that would be amicable to their interests, thus perhaps causing them never to enter into the treaty.

A CWC without Russia, furthermore, means that over 50 percent of the world’s known chemical weapons stockpile will be outside of the treaty regime. Should the United States ratify the CWC but absent Russian participation or the involvement of other states that have weapons, the treaty’s intrusive verification schemes would, for all intents and purposes, be focused solely on the United States, the only nation that is likely to declare integral weapons inventory. In effect, we would be paying 25 percent of the cost of the treaty to verify our own compliance.

Finally, Russian commitment to forego a chemical weapons capability. This is central to the meaning of the CWC. If Russia is not willing to do this, obviously their intentions are not to comply with CWC.

We have evidence of the so-called Novichok class of nerve agents that is more lethal than any other known chemical weapon in the world.

According to Jane’s Land-Based Air Defense 1997–98, Russia is developing three new nerve agents, two of which are eight times as deadly as the VX nerve agent stockpiles we know about.

Mr. President, Russia’s new chemical agents do not depend on stockpiles that are on the CWC list of scheduled chemicals, according to sources. Thus, inspectors will neither be prepared nor allowed to look for them, nor will Russia be precluded from importing these components. A declassified portion of a May 1995 national intelligence estimate states ‘Production of new binary agents would be difficult to detect and confirm under the CWC’s IIP activity.’

In conclusion, in light of these ongoing activities and related United States intelligence estimates, it is reasonable to condition United States ratification of the CWC to the President certifying that the CWC is progressing chemical weapons capability or other activity contrary to the purpose of the convention weapons treaty.

For those reasons, Mr. President, I join the distinguished majority leader and the chairman of the Foreign Relations Committee in urging that we not strike this condition from the resolution of ratification.

Mr. LEVIN addressed the Chair. The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, parliamentary inquiry: How much time is under the control of the Senator from Delaware?

The PRESIDING OFFICER. Seven minutes.

Mr. BIDEN. I yield 5 minutes to the distinguished Senator from Michigan.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are ordered.

The PRESIDING OFFICER. The Senator from Delaware?

Mr. LEVIN. Mr. President, it isn’t always that our top military officials so strongly and jointly agree that an arms control treaty is in our national security interest. But in the case of the chemical weapons treaty before the Senate today, that strong support has been expressed over and over and over again.

The Chairman of the Joint Chiefs, General Shalikashvili, speaking on behalf of the Chiefs of each of the services, and the combatant commanders, urged the Senate to ratify this treaty because it would make it less likely that our troops will face chemical weapons. Their position is not based on politics or public opinion polls; it is based on their military judgment.

The Director of Central Intelligence, George Tenet, has said that this treaty will give us additional tools to inspect for chemical weapons that we otherwise would not have.
The United States, under former President Bush, led the way to the nego-
tiation of this treaty. It would repre-
sent a tragic blow to American leader-
ship were the Senate to reject a trea-
ty negotiated and supported by three
Presidents. It would lead them to say, if
and when the day comes that we must
act militarily to eliminate a country’s
chemical weapons, the credibility of
and support for, that effort will be un-
dermined by our lack of clean hands
and our refusal to ratify a treaty that
makes it less likely those weapons will
be created to begin with.

The CWC destroys stockpiles that
could threaten our troops; it significa-
cantly improves our intelligence capa-
bilities, and it creates new interna-
tional sanctions to punish those states
that remain outside of the treaty.
If we fail to ratify the convention,
we will imperil our leadership in the
entire area of nonproliferation, perhaps
the most vital security issue of the post-Cold-Wars.

Relative to condition 29 that is be-
fore us, there is a motion to strike this
condition that has been made by the
Senator from Indiana. It is based on
many grounds. But the first ground
that points out, which seems to me
is the foremost ground even before we
go to the details of this condition, is
that this condition is a killer condi-
tion. If this condition stays in this res-
olution, it kills this ratification reso-
lation because it makes it conditional
on somebody else ratifying.

Do we want to make our ratification
conditional upon these other events?
Do we want to give Russia the power to
decide our participation in the leader-
ship of this crucial treaty? The Presi-
dent has said—I am here quoting him—
“This is precisely backwards. The best
way to secure Russian ratification is to
ratify the treaty ourselves. Failure to
do so will not only give hard-liners in
Russia the handout of not having to
hold onto their chemical weapons.”

Do we want Russia to ratify? Clearly
we do. General Shalikashvili, who has
so strongly supported the ratification
of this treaty, has testified before us in
the Armed Services Committee as fol-
lows: “The most significant advantage
derived from the convention is the po-
tential elimination of chemical weap-
on states parties.” He went on to
say, “Eventual destruction of approxi-
mately 40,000 tons of declared Russian
chemical weapons will significantly re-
duce the global chemical threat.”

That is why General Shalikashvili
has said, among other reasons, that the
ratification of this treaty will make it
less likely that our troops would ever
face chemical weapons because the
largest declared stockpile by Russia
must be destroyed under this treaty.
General Shalikashvili, Chairman of our
Joint Chiefs, speaking for each of the
chiefs and our combatant commanders,
says that the destruction of 40,000 tons
of declared chemical weapons by Russia is
the most significant advantage to this
treaty.

What does our ratification have to do
with Russian ratification? I would sug-
nerate that we listen to a number of
voices. But one of them is a Russian
voice—a Russian scientist who blew
the whistle actually on the Soviet
Union chemical weapons program. His
name is Dr. Vasilii Alekseev. Dr. Vasilii
Alekseev is a high-level Russian scientist. This is what he
said about the relationship in a letter
that he wrote to Senator Lugar. “Sen-
ate ratification of the convention is
crucial to securing action on the treaty
in Moscow.”

Our ratification, he is telling us—this
is an inside voice—is critical to getting
the Duma to ratify this treaty. And
getting the Duma to ratify this treaty is,
in the eyes of General Shalikashvili,
the single most important advantage
of the treaty because then 40,000 declared
tons of chemical agents, the largest
stockpile in the world, will be de-
stroyed and less available for leakage,
less available to any potential sale or
disposition to others adversely or inad-
vertently.

So our leadership is important to a
safer world. This is a treaty that we
helped to draft, negotiated, and now it
is before us to ratify. But our leader-
ship is as important to the ratification
of this treaty inside of Russia.

The decision of whether the United
States ratifies this convention is for
this body, the United States Senate to
decide—not the Russian Duma. We
should strike this killer condition.

The purpose of both the Bilateral De-
struction Agreement and the Wyoming
MOU was to help make progress to-
wards achieving a CWC.

Now that we have the CWC complete,
the BDA and the Wyoming MOU are
less relevant. We can enter the CWC
without the BDA being implemented.

The BDA does not go as far as the
CWC. BDA would permit both sides to
keep 5,000 tons of chemical agent. The
BDA does not permit challenge inspec-
tions.

The CWC requires complete destruc-
tion of all chemical weapons, and pro-
vides for challenge inspections to any
facility suspected of a violating sus-
pected of violating the CWC.

If the CWC is ratified by the United
States—which this killer condition
would prohibit—and by Russia—it is
entirely possible that the United
States and Russia can finish negotia-
tions on the BDA and let it enter into
force.

If the United States does not ratify
this convention, there is little chance
Russia will ratify it and there is no
chance for this BDA ever entering into
force.

If we want Russia to ratify the CWC—and surely we must—then we
should ratify the CWC—which, in turn
requires us to strike this condition.

The PRESIDING OFFICER. The Sen-
ator from North Carolina is recognized.

Mr. HELMS. I thank the Chair.

Mr. President, I am going to abbre-
viate my statement in the interest of
time, hoping that we can help Senators
get out a little bit earlier, including the
distinguished occupant of the Chair.

Mr. President, this condition is very
important. It forbids the deposit of the
United States instrument of ratifica-
tion of the CWC unless Russia has made
progress in implementing the 1990 Bi-
lateral Destruction Agreement and has
resolved concerns over its incomplete
data declarations under the Wyoming
memorandum of understanding, rati-
fication of the convention is deferred
to forgo the clandestine maintenance
of chemical weapons production capa-
bility.

That sounds right to me but more than
anything else it is a measurement of
how Russia is playing games in terms of
not doing things to live up to its
agreement.

I have the highest hope that Russia
one day will have a free enterprise
way and that all the rest of it, but such
commitments by Russia are absolutely
imperative and essential to the success
of this CWC, this treaty, in securing a
truly global ban on possession and use
of chemical weapons. If Russia contin-
ues to drag its feet, the CWC will be
worth almost nothing. And for
my part, as one Senator, I am ex-
remely concerned that Russia, the
country that possesses the largest and
the most sophisticated chemical weap-
on arsenal in the world, has refused
consistently to agree to implement its
commitments to eliminate its chemi-
cal weapons stockpile despite the 1990
United States-Russian Bilateral De-
struction Agreement.

Now, put any face on it you want, but
if Russia fails to do that, then Russia
is telling this Senate, this Govern-
ment, the American people, we don’t
care what you want; we are going our
way and that is a pretty dangerous po-
sition for Russia to take in terms of
world peace.

This coupled with the Russian with-
drawal from the BDA and the Russian
Parliament rejection of the chemical
weapons destruction plan portends omi-
nous things to come in terms of Rus-
sia’s ratification of this treaty.

Now, I hope Senators are aware, and
if they are not aware, that they will
become aware, that Russia is by far
and away the world’s largest possessor
of chemical weapons. If the United
States in eliminating its own chemical
stockpile could assure that Russia also
destroyed its stockpile through the Bi-
lateral Destruction Agreement, 99 per-
cent of the world’s chemical arsenal
would be eliminated independently of
this treaty. So that gives you some
idea of the enormity of this situation
which has been passed over and over
and over. I think everyone agrees.

Now, of course, Russia has signed the
CWC but it has not ratified this treaty.
Evidence has come to light recently, by
the way, suggesting that Russia may
not pursue ratification of this treaty in
the near term and does not intend to
abide by the CWC even if it ratifies it.

I just want Senators to understand
what they are doing. It is all very well

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and good to succumb to the imaginative suggestion that we are doing something about chemical weapons when we pass this treaty. We are not. It is not going to do one bit of good until the United States is able to persuade some other people to do things that they have already agreed to do. So the danger is how the American people are being misled. Those who have endorsed this treaty into believing that something is being done about chemical weaponry.

I hope, if we do nothing else in our opposition to this treaty, we can make the American people aware that nothing is being done for their safety by this treaty, I wish it were different. I wish I did not have to stand here and say this. But those are the facts. This treaty is absolutely useless in terms of giving the American people any security at all.

According to a May 6, 1996, letter from the DIA, the Defense Intelligence Agency, to the chairman of the Senate Select Committee on Intelligence:

There are several factors affecting Russia's actions regarding its CW programs and arms control commitments. Russian officials probably believe they need a CW capability to defend other nations from chemical warfare. They cite a potential threat from purported CW programs in the United States, other Western nations, and several countries on or near Russia's borders.

Now, the DIA continued:

In addition, Russian officials believe that dismantling the CW program would waste resources and rob them of valuable production assets. They maintain that the CW production facilities should not be destroyed but be used to produce commercial products.

Well, la-de-da. Every nation that has some ulterior motives with chemical weapons can say the same thing.

Moreover, these officials do not want to see their life's work destroyed, their jobs eliminated, and their influence diminished.

And here we are probably going to ratify this treaty in spite of the great concern about the views of Russia's senior military leadership on the Chemical Weapons Convention and on the elimination of Russia's chemical warfare capability in general.

On numerous instances, the United States has received indications that key elements within the Russian Government staunchly oppose the CWC. Back in 1994, October 25, Dr. Leonid Fyodorov—then the chief of the Senate Select Committee on Intelligence, told Interfax news service that key officers from the Russian Ministry of Defense had spoken against the treaty during the Russian Duma defense committee's closed hearings on October 21, 1994.

Now, my concerns about the two Russian generals responsible for Russia's chemical warfare elimination program have been well documented in a series of letters to President Clinton, and I ask unanimous consent that these letters be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

**U.S. Senate, Committee on Foreign Relations, Washington, DC, October 25, 1995.**

**The President,**

**The White House**

**Washington, D.C.**

**DEAR Mr. PRESIDENT:** I take no offense at your declaration of the treaty that I am irresponsible denying consideration of the Chemical Weapons Convention. Both of us know that this treaty, however, the CWC is a treaty which in my view must not be seriously considered by Congress unless and until the issue of verification can be resolved.

There is no disagreement that the production stockpiling and use of chemical and biological weapons is inherently abhorrent, and especially by rogue regimes. Yours is the second Administration with which I have raised compelling questions about verification, Russian compliance, Russian binary weapons programs—and the cost of the Chemical Weapons Convention.

And and when we receive unsatisfactory answers to these concerns, there would be a substantial increase in the probability of this treaty's being reported out of the Foreign Relations Committee for formal consideration by the Senate.

I was astounded to learn, as surely you were, that the former Chairman of the [Russian] President's Committee on Conventional and Biological and Chemical Weapons, Lieutenant General Anatoly Kuntsevich, is now under the house arrest for his having delivered 1,800 pounds of military chemicals to terrorists in the Middle East in 1993. What's more, the Russian intelligence service asserts that General Kuntsevich attempted to sell 5 tons of military chemicals to the same buyers a year later in 1994. He was caught in the act.

Needless to say, the arrest of this key Russian negotiator of the Chemical Weapons Convention on trafficking charges—for dealing in the very same chemical agents he was supposedly trying to control—calls into question the integrity of every provision of the Chemical Weapons Convention. It certainly lends credibility to concerns about the trustworthiness of Russian declarations regarding its current chemical and biological programs, its stockpiles, and the sincerity of the Russian's willingness, and ability, to abide by the CWC and other agreements.

**General Kuntsevich's role in chemical weapons dates to the 1980s. As Deputy Commander of Soviet Chemical Forces, he was honored as a hero of Socialist Labor in 1981. In 1986, he headed the Soviet delegation to the United Nations Conference on Disarmament, which negotiated the CWC. In 1991, he received the Lenin Prize for his work on binary chemical weapons. Through his many years as a negotiator for the Soviet/Russian governments, Kuntsevich won a number of concessions on the Chemical Weapons Convention and follow-on provisions of the Bilateral Destruction Agreement. Moreover, he was responsible for Russia's dubious declarations under the Wyoming Memorandum of Understanding.**

While General Kuntsevich said to have been removed by President Yeltsin in April 1994, concern remains that the General may have conspired to negotiate significant loopholes in the agreements with the obvious intent of enabling him and others to engage in chemical trafficking with impunity—and possibly to permit Russia to evade its obligations.

I respectfully request a thorough analysis of the negotiating record of the CWC and the Bilateral Destruction Agreement in order to review the role of General Kuntsevich in securing various provisions and concessions. I regard this analysis as essential to any credible review.

Furthermore, I need to know General Kuntsevich's role in the provision of questionable data declarations under the Wyoming Memorandum. Has he been allowed to retain contacts with the Yeltsin government since his removal?

There are three other questions, Mr. President, that simply must be answered:

(1) When did the U.S. government learn of General Kuntsevich's role in trafficking chemical weapons and other corrupt practices?

(2) Were you aware of his activities, and his arrest, while you were urging Congress to move forward on the ratification of the treaty?

(3) If General Kuntsevich has been under house arrest since April 1994, what could explain the timing of the Russian government's revelations regarding his activities?

The Russian government should be urged to accelerate and complete its investigation of General Kuntsevich. I do hope you will obtain from the Russian government a full accounting of precisely what was sold and to whom, and how Russian export controls were circumvented. Additionally, what precautions, if any, have been taken to prevent such future incidents from occurring?

Obviously, unless and until these concerns and those raised previously have been addressed, it would not be fair to the security and safety of the American people even to consider moving the Chemical Weapons Convention out of Committee.

Respectfully,

**Jesse Helms.**

**U.S. Senate, Committee on Foreign Relations, Washington, DC, October 30, 1995.**

**DEAR Colleague:** I am confident that you were astonished, as I was, that Russia's former chief negotiator for the Chemical Weapons Convention is now under house arrest for trafficking in the very military chemicals he purportedly was seeking to control. Apparently, General Kuntsevich in 1993 sold 1,800 pounds of chemical agents to terrorists in the Middle East. He was caught attempting to sell another 5 tons a year later.

Many of us have consistently raised concerns regarding the verifiability and enforceability of the Chemical Weapons Convention. The most recent incident makes it demonstrable that the CWC, even had it been in effect, would have been helpless to interdict illicit trade in chemicals. (General Kuntsevich is alleged to have transferred chemicals not listed in the chemicals annex of the CWC, and those chemicals went to a country that was not even a signatory to the Convention. He was caught red-handed by traditional, national law enforcement means, not by some global policing mechanism.)

Furthermore, had General Kuntsevich not been caught, it is conceivable that he and/or his cronies may have worked their way into
the administrative body of the CWC, and would then have access to a plethora of information regarding the chemical programs of all signatories, and forewarnning of all shortcomings to be conducted under the Convention.

The attached letter that I sent to President Clinton underscores my concerns arising from the arrest of General Kuntsevich. Given Kuntsevich’s influence over the negotiating process of the CWC, and his responsibility for overseeing the destruction of his own programs, I am persuaded that the Russian-U.S. Bilateral Destruction Agreement, I have requested a thorough review of the negotiating record of both agreements.

I bring this incident to your attention as the Senate continues its discussion of issues surrounding the Chemical Weapons Convention. General Kuntsevich’s activities and the arrest highlight the many legitimate concerns we all share regarding how best to guard against the threat that chemical weapons pose to our nation’s security.

Respectfully,

JESSE HELMS

DEAR MR. PRESIDENT: I was gratified to note your Administration’s decision to impose sanctions against Lieutenant Col. Anatoly Kuntsevich, former Chairman of the [Russian] President’s Committee on Conventional Problems of Chemical and Biological Weapons. I had written to you on October 25, 1995 regarding his having been arrested on charges of selling military chemicals to a foreign terrorist.

Disturbing information about General Kuntsevich’s activities prompted my concerns about whether the U.S. can believe Russian declarations regarding: (1) its current chemical and biological programs and stockpiles; (2) its willingness to abide by the 1990 U.S.-Russian Bilateral Destruction Agreement (BDA); and (3) its intent to ratify the Chemical Weapons Convention.

General Kuntsevich was, after all, one of the most senior officers in Russia’s chemical weapons program. I understand that in 1944 he was arrested, in conjunction with Colonel General S.V. Petrov, the U.S.-Russian work plan for the destruction of Russia’s chemical weapons.

At that time, your National Security Adviser assured me that General Kuntsevich was acting independently of the Russian government. I was also told that his actions in no way called into question the willingness of Russia to abide by its commitments to eliminate its stockpile of chemical weapons. However, it subsequently came to my attention that yet another high-ranking Russian general, General Petrov, has openly alluded to the continuing, maintaining its chemical weapons capability. General Petrov, the other signatory to the 1994 Work Plan, expressed his views in the November-December 1994 edition of the official Russian Military Journal, Military Thought. Such a belief, stated publicly by a key Russian officer, prompts concern that key elements within the Russian government may not even intend to implement the BDA, ratify the CWC—or abide by either agreement.

Most troubling to me, however, are rumors that I have heard that indicate that Russia no longer favors implementation of the six-year old Bilateral Destruction Agreement. I further understand that Russia will not seek to ratify the CWC before the near future, and that the United States has been told to delay its own ratification indefinitely—or risk the possibility that Russia will never ratify the CWC.

I am concerned that nearly a month has elapsed and the Senate Foreign Relations Committee to be notified of any imminent change in Russian policy towards the destruction of its chemical arsenals.

Accordingly, I respectfully request immediate declassification of any documents or cables pertaining to the aforementioned issues, including cable number 007599 dispatched from Bonn on May 21, 1996, and their being provided to the Committee. I also respectfully request detailed, and unclassified responses to the following questions:

(1) Has the Administration conducted any assessment identifying Russian officials believed to oppose dismantlement of Russia’s chemical weapons stockpile, or who are linked to Russia’s chemical weapons program? Please declassify these reports provided to the Committee.

(2) The Central Intelligence Agency stated in a report in March, 1996, that “some CWC-capable countries that have signed the CWC show no signs of ending their programs.” Does the intelligence community believe that Russia intends to forgo all aspects of its chemical weapons program?

(3) Is it the case that Russia has not yet constructed chemical weapons destruction facility? Is it also true that the Shchuch’ye Implementation Plan exists only on paper, and that the plan does not yet even include such rudimentary components as baseline data, a site feasibility study? How many years will the Russian Federation has indeed destroyed its chemical weapons? What 

(4) On June 23, 1994, the then-Director of Central Intelligence, R. James Woolsey, stated that the U.S. had “serious concerns over inconsistencies and contradictory aspects of the data” provided to the United States by Russia regarding its chemical weapons program. How will Russia withdraw from the BDA affect U.S. efforts to resolve questions regarding “contradictions” in Russia’s declarations about its chemical weapons stockpile?

(5) Dr. Vil Mirzayanov, former chief of counterintelligence at the State Union Scientific Research Institute for Organic Chemistry and Technology, has alleged that Russia has produced a new class of binary nerve agents five to eight times more lethal than any other known chemical agent, and that work may be continuing on these chemical weapons. Is the Administration satisfied that the Russian Federation has indeed destroyed its chemical weapons? Would continued destruction of all offensive chemical weapons agents?

I will appreciate your assistance in resolving these serious concerns issues which so directly impact on the national security of the United States.

Respectfully,

JESSE HELMS
U.S. Senate, Committee on Foreign Relations, Washington, D.C., July 26, 1996.

DEAR MR. PRESIDENT: When I wrote to you on June 21 regarding perhaps the most significant, ominous shift in Russian arms control policy since the end of the Cold War, I stated that the Administration had received information from the Administration concerning reports that Russia will not implement the six-year old U.S.-Russian Bilateral Destruction Agreement (BDA) or pursue ratification of the CWC in the near future.

Mr. President, since writing to you, my concern as to whether Russia will ever fully disclose and implement the BDA and ratify the CWC have been confirmed beyond peradventure. To be specific, Russian Prime Minister Chernomyrdin wrote to U.S. President Bill Clinton on July 8, stating officially that both the BDA and the Wyoming Memorandum of Understanding (MOU) have outlived their usefulness to Russia. Moreover, it has been established that Prime Minister Chernomyrdin (1) linked Russian ratification of the CWC to U.S. agreement to a joint Statement linking Russia’s chemical weapons program to the ratification, (2) stated that the American taxpayers must pay the cost of the Russian destruction program, and (3) linked ratification to U.S. acquiescence to Russia’s position on conversion of its chemical weapons facilities.

Even more disturbing is the report that the Prime Minister declared that if the CWC enters into force without Russia, it will be impossible for Russia ever to ratify the treaty.

Mr. President, the Russian Federation appears to anticipate that due to intense U.S. diplomatic lobbying the CWC may enter into force this summer. I urge U.S. efforts to inducing nations to ratify the treaty, and, bring it into force before the views of the United States Senate have been expressed. It is now evident that neither the United States nor Russia will have a hand in finalizing the 37 completed implementation procedures of the treaty. Once 66 countries have ratified, all manner of detailed guidelines affecting the CWC’s verification regime, ranging from the conduct of inspections to the safeguarding of samples transfers and the analysis of off-site, will be finalized rapidly.

Prime Minister Chernomyrdin’s letter was clear. Speaking candidly, he wrote, shall say that the Convention’s entry into force without Russia would hamper its ratification with us.” On July 22, 1996, the Russian delegation in The Hague repeated this position, stating that “the entry into force of the Convention without Russia, to be perfectly candid, would hamper its ratification in our country.”

Since Russia is bound to know that the treaty will enter into force without Russia’s participation, is it not evident that Russia is pursuing a diplomatic exit strategy from the CWC?

The Senate needs to be informed by the Administration precisely how Russian withdrawal from the BDA and the Wyoming MOU will affect U.S. efforts to resolve questions concerning Russia’s various declarations about its chemical weapons stockpile.

Even more disturbing is the report that Russia has “serious concerns over apparent incompleteness, inconsistency and contradictory aspects of the data” provided to the United States by Russia under the 1994 Wyoming Memorandum of Understanding.

(1) linked Russian ratification of the CWC to U.S. acquiescence to Russia’s position on conversion of its chemical weapons facilities.

(2) The Central Intelligence Agency stated in a report in March, 1996, that “some CWC-capable countries that have signed the CWC show no signs of ending their programs.” Does the intelligence community believe that Russia intends to forgo all aspects of its chemical weapons program?

(3) Is it the case that Russia has not yet constructed chemical weapons destruction facility? Is it also true that the Shchuch’ye Implementation Plan exists only on paper, and that the plan does not yet even include such rudimentary components as baseline data, a site feasibility study? How many years will the Russian Federation has indeed destroyed its chemical weapons?

(4) On June 23, 1994, the then-Director of Central Intelligence, R. James Woolsey, stated that the U.S. had “serious concerns over inconsistencies and contradictory aspects of the data” provided to the United States by Russia regarding its chemical weapons program. How will Russian withdrawal from the BDA affect U.S. efforts to resolve questions regarding “contradictions” in Russia’s declarations about its chemical weapons stockpile?

(5) Dr. Vil Mirzayanov, former chief of counterintelligence at the State Union Scientific Research Institute for Organic Chemistry and Technology, has alleged that Russia has produced a new class of binary nerve agents five to eight times more lethal than any other known chemical agent, and that work may be continuing on these chemical weapons. Is the Administration satisfied that the Russian Federation has indeed destroyed its chemical weapons? Would continued destruction of all offensive chemical weapons agents?

I will appreciate your assistance in resolving these serious concerns issues which so directly impact on the national security of the United States.

Respectfully,

JESSE HELMS
U.S. Senate, Committee on Foreign Relations, Washington, D.C., July 26, 1996.
from the BDA lower the intelligence community's already poor level of confidence in its ability to monitor Russian treaty compliance.

Mr. President, I respectfully reiterate my request for detailed, and unclassified responses to the questions I asked of you on June 21, 1996. I also will appreciate your providing:

(1) the Chernomyrdin letter of July 8, 1996, which I understand must be unclassified since it was transmitted by facsimile around Washington on unsecured lines;

(2) all assessments by the intelligence community discussing the views of Prime Minister Chernomyrdin towards the BDA, the CWC, and any assessments as to whether Chernomyrdin's statement complete elimination of Russia's chemical weapons arsenal;

(3) the draft joint statement and all relevant documents supplied by Russia to Vice President Gore prior to the President's Moscow Summit;

(4) a detailed assessment of discrepancies in Russia's Wyoming MOU data and the results of any bilateral discussions regarding those discrepancies;

(5) a detailed assessment by the intelligence community of the impact that non-implementation of the BDA and Wyoming MOU will have on the U.S. ability to monitor Russian compliance with the CWC;

(6) a detailed estimate of the additional cost to the United States of implementing the CWC without the BDA in place;

(7) an estimate of the total cost of destroying Russia's chemical weapons stockpile; and

(8) all documents relating to any discussions with or assurances made to Russia by the Administration regarding U.S. assistance to the Russian destruction program.

In closing, Mr. President, I should note for the record that the unanimous consent agreement to proceed to consideration of the CWC on or before September 14, 1996 is predicated entirely upon the administration's providing "such facts and data as the Chairman and ranking minority member of the Foreign Relations Committee." I hope we can work together on this matter. I will appreciate your assistance in resolving these questions concerning issues which so directly impact on the national security of the United States and the American people.

Respectfully,

Jesse Helms

Mr. HELMS. Mr. President, we are all aware of how the administration has refused, refused to provide the Senate, despite my repeated requests, my repeated entreaties to them, to give us an updated assessment of the Russian position regarding the BDA and the CWC.

Russian Prime Minister Chernomyrdin wrote to Vice President Gore on July 8, 1996 stating that both the BDA and the 1999 Wyoming memorandum of understanding have outlived their usefulness to Russia, don't you see. Moreover, the Prime Minister, one, tied Russian ratification of this treaty, the CWC, to United States agreement to a joint statement linking ratification by the United States to Russian ratification; two, stated that the American taxpayers—get this—the American taxpayers must pay the cost of the Russian destruction program; and three, he linked ratification to United States acquiescence to Russia's position on conversion of its chemical weapons facilities. The shift in Russian arms control policy, you see, will have important ramifications.

First, the minimalist approaches taken by Russia in its data declaration on the Wyoming memorandum of understanding will go unresolved. Russia has declared that the elimination of its stockpiled chemical weapons is equivalent to 40,000 tons of agent. This declaration is absolutely untrue. The Director of Central Intelligence, James Woolsey, testified before the Foreign Relations Committee on June 23, 1994, that the United States had "serious concerns over apparent incompleteness, inconsistency and contradictory aspects of the data" submitted by Russia under the Wyoming MOU. On August 27, 1993, Admiral William Studeman, Acting Director of Central Intelligence, wrote to Senator Glenn stating:

"We cannot confirm that the Russian declaration of 40,000 mt is accurate. In addition, we cannot confirm that the total stockpile was stored only at the seven sites declared by the Soviets..."

Articles in both the Washington Post and the Washington Times alleged that the Defense Intelligence Agency has estimated that the total stockpile could be as large as 75,000 metric tons.

Omissions in Russia's MOU data declarations have clear implications for how Russia will interpret the various provisions of the CWC. Because the BDA mandates annual updates to the CWC, Russia will have an opportunity each year to reinterpret the data as it deems appropriate.

Second, Russia has consistently refused to provide information on the status of its binary chemical weapons program. On June 23, 1994, then-Director of Central Intelligence James Woolsey declared that "the data we have received from Russia makes no reference to binary chemical weapons or agents. That is contrary to our understanding of the program that was initiated by the former Soviet Union."

Dr. Vil Mirzayanov, former chief of counterintelligence at the State Union Scientific Research Institute for Organic Chemistry and Technology, has stated that the Russian Federation may continue work on novel nerve agents far more lethal than any other known chemical agents—such as A-230, substance 33, and substance A-232. In an article in the Wall Street Journal on May 25, 1994, Dr. Mirzayanov wrote:

"It is very easy to produce binary weapons without detection under the guise of agricultural products. The products easily pass all safety tests and become registered with the government as legitimate commercial products. The plant receives a license for production and goes into operation. Neither the firm's leaders, its staff, nor international inspectors know that the chemicals are a component of a new weapon. As the public talks about banning chemical weapons, Russia's emphasis on accelerating research and development into the chemical warfare field may continue. The Soviets..."

"...Fifteen thousand tons of Substance 33 have been produced in the city of Novocheborksarsk...But our generals have told the U.S. that Novocheborksarsk is turning out another substance known as VX, but another substance that has not been given legitimate commercial applications, that they are not covered under the CWC's schedules, and that OCPW inspectors will not know what they are examining when they come across such chemicals. The United States should not ratify the CWC until Russia agrees to forgo this abhorrent program.

Third, the BDA provides for United States on-site inspections of Russian storage, destruction and production facilities as a combined verification of declarations. The United States can expect to gain real monitoring benefits from the CWC only if the Bilateral Destruction Agreement [BDA] is implemented. This agreement provides for United States on-site inspections of Russian storage, destruction and production facilities. Without the BDA, the United States will be forced to verify Russian CWC compliance based upon a smaller number of inspections than anticipated under the bilateral arrangement, with inspections of Russian sites by the OCPW rather than by United States personnel, and with no guaranteed United States access to detailed inspection data. In other words, the intelligence community's already poor level of confidence in its ability to monitor Russian chemical weapons compliance will fall even lower.

Fourth, Russian insistence on excluding several of its chemical weapons-related facilities from the BDA's definition of chemical weapons production facilities—"chemical weapons production facility," and hence from the CWC's definition, relates directly to its desire to maintain a clandestine chemical weapons production capability. The
United States refusal to accede to the Russian position, which would have—in turn—strengthened the Russian case for facility conversions under the CWC, may be a primary reason that Russia has refused to implement the BDA. We should have the courage to take on any obstacle, including those put in place by our allies, to get this treaty ratified.

Moreover, without the bilateral agreement the OPCW will increase the size of its international inspectorate and purchase of additional equipment. This treaty does not address the expected costs of the regime. Further, the CWC requires States Parties to pay for monitoring of their chemical weapons production, storage, and disposal facilities.

Mr. President, I guess we ought to respond once more—it is an exercise in futility, but we ought to keep responding to that old litany that we have heard this day about making the United States ratification of the CWC contingent upon Russia's acting first.

Let us look at a little bit of history. This Senate approved the START II treaty amidst a clamor of claims by the administration that a failure to act was preventing Russian approval of that treaty. Does anybody hear anything familiar about that? More than 15 months have passed and the Russian Duma still has not approved START II.

Instead, the Russian leadership rendered ratification of the START II treaty contingent upon United States acquiescence to Russian interpretation of, get this, the 1972 Anti-Ballistic Missile Treaty and now the Chemical Weapons Convention is being tied to NATO enlargement and other issues.

Mr. President, surely, surely, Senator Lott and Senator Inhofe, have 5 minutes. Then he would like 2 minutes. There are 5 minutes remaining on the resolution. There are 5 minutes remaining on the amendment. There are 5 minutes remaining on the resolution.

Mr. President, surely, surely, Senators requesting time?

Mr. President, surely, surely, Senator Heflin and Senator Sessions have already brought about a number of changes. The Senate may effect further changes as the evening progresses. But the important thing we must keep in mind is that this document must be regarded as one that has to be improved. And it is the leadership of the United States that must step forward to achieve that goal.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina has 5 minutes remaining on the amendment.

Mr. HELMS. May I ask the distinguished Senator from Oklahoma how much time he believes he will need?

Mr. INHOFE. May I have 6 minutes?

Mr. HELMS. I yield 7 minutes to the Senator.

The PRESIDING OFFICER. The Senator from North Carolina has 5 minutes remaining on the amendment.

The Senator is recognized for the remainder of the time.

Mr. INHOFE. I inquire of the Senator from North Carolina if he has other Senators requesting time?

The PRESIDING OFFICER. The Senator from North Carolina has 5 minutes remaining on the amendment.

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The PRESIDING OFFICER. The Senator from North Carolina has 5 minutes remaining on the amendment.

The Senator is recognized for the remainder of the time.

Mr. HELMS. Yes. I think I have some time over in one corner.

The PRESIDING OFFICER. The Senator has time on the resolution, if he wishes. There are 5 minutes remaining on the motion.

Mr. HELMS. I understand that. I have 5 minutes. Then he would like 2 minutes. So take it out of the other pot.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for up to 2—up to 7 minutes.

Mr. INHOFE. Are you sure that's right?

The PRESIDING OFFICER. Yes.
Mr. INHOFE. I thank the Senator from North Carolina. I do want to address this particular amendment. Before I do, I have three articles, and I ask unanimous consent to have them printed in the RECORD after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. INHOFE. The first one is a Wall Street Journal editorial of September 9, 1996. I will just read the last paragraph.

[From the Wall Street Journal, Sept. 9, 1996]

But, one of the statements that was made by the distinguished Senator from Michigan I thought was interesting. He said, if I got it right, and correct me if I am wrong: "The single most important reason to ratify the treaty is to encourage Russia to ratify it." I think this is the one thing that does not seem to make that much difference because of their past history on what they have done.

I would like to clear up something because I think we have gone through this so many times. It has always been known. It has been clearly implied by both Republicans who are supporting the ratification of the Chemical Weapons Convention as well as Democrats who are supporting it that this was started in the Reagan administration and that Ronald Reagan was in support of a chemical weapons treaty.

I happened to run across something here that I am going to read. These are the conditions—I am going to save the best one last. Conditions under which Ronald Reagan said he would agree to the ratification of a chemical weapons convention.

First, the condition was that strategic defense initiative and theater missile defense systems would be deployed and operational as one safeguard against cheating.

As we know, currently we do not have those in place.

The second problem is verification. No one, not even its most ardent supporters in the Administration, is naive enough to claim that the treaty is verifiable. Chemical weapons are easy to make and easy to hide. The sarin that was used in the attack in the Tokyo subway last year was concocted in an 822 room. Instituting snap inspections of all those chemical plants are easy to make and easy to hide. The sarin that was used in the attack in the Tokyo subway last year was concocted in an 822 room. Instituting snap inspections of all those chemical plants isn't going to stop a future Aum Shinri Kyo. Nor is it going to stop a determined government.

In addition, the inspection and reporting procedures that were required under START would have to be made from one another. This means not only countries such as China and Russia, but also Cuba and Iran, which have both signed. In other words, forget about the trade embargoes and forget about foreign policy. The treaty would require us to negotiate the modernization of the chemical-weapons industry in a host of countries that just might use them.

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treaty’s endorsement by the Chemical Manufacturers Association, which represents just 190 member companies and had a hand in formulating the treaty’s verification procedures that are already vastly regulated, and the treaty’s inspection and reporting requirements wouldn’t be much of an additional burden. It also can’t hurt that the treaty would keep its members trading and sales opportunities thanks to Article XI.

The list of problems with the treaty goes on and on. Legal scholar Robert Bork raises the possibility that the verification requirements might violate the Constitution’s ban on search and seizure, and its proper consequences. The Constitution isn’t happy with this since, under the Clinton Administration’s interpretation, it would prohibit the military from using non-lethal chemical weapons.

It’s not hard to imagine a scenario in which the Army is forced to wave them away isn’t going to make that happen.

Ultimately the treaty’s most pernicious effec-
tive that it would null responsible nations into a false belief that they’d ‘done something’ about the chemical weapons problem and that it now was behind them. Yes, the world would be a better place without chemical weapons. But this treaty’s attempt to wave them away isn’t going to make that happen.

[From the Washington Times, Sept. 4, 1996]

IMPENDING CWC DEBATE

(By Frank Gaffney, J.R.)

There is a certain irony to the timing of the looming Senate debate on the Chemical Weapons Convention. After all, in a sense this treaty was the direct result of one of Saddam Hussein’s earlier genocidal operations against the Kurds of Northern Iraq. It came about after the abysmal 1989 conference in Geneva, a brand new “international norm” on chemical weapons and international community’s failure to enforce one.

In a bid to deflect criticism for the inter-
national community’s failure to enforce one of the provisions of the Chemical Weapons Convention (CWC), the administration convened a series of briefings for Senate staffers over the August recess. In these lopsided sessions, a gaffe of 15 or more executive branch officials, frustrated by the Clinton administration’s handling of the CWC, came about after the abysmal 1989 conference in Geneva, a brand new “international norm” on chemical weapons and international community’s failure to enforce one.

For example, the administration convened a series of briefings for Senate staff concerning the August recess. In these lopsided sessions, a gaffe of 15 or more executive branch officials, frustrated by the Clinton administration’s handling of the CWC, came about after the abysmal 1989 conference in Geneva, a brand new “international norm” on chemical weapons and international community’s failure to enforce one.

Now, readers of this column learned last week that, quite apart from the problems with this treaty from the standpoint of its verifiability and enforceability, there are a number of questions that have been posed about how the CWC has been affected by the Clinton administration. Both the politicians and diplomats decided to negoti-
tigate a new, utterly unverifiable agreement.

After four years of further negotiations in Geneva, a brand new “international norm” on chemical weapons and international community’s failure to enforce one: the Chemical Weapons Convention (CWC).

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CONGRESSIONAL RECORD — SENATE

April 24, 1997

OPEN UP IN THE NAME OF THE . . . ORGANIZATION FOR THE PROHIBITION OF CHEMICAL WEAPONS

(By Douglas J. Feith)

The Chemical Weapons Convention would be the first arms control agreement to reach into the lives of non-military U.S. businesses and impose costs and regulatory burdens.

By any rational standard, this treaty is being op-

posed by an entrenched band of foreign policy ideologues and isolationists who think the United Nations is the enemy and who say that America must be the first arms control agreement to reach into the lives of non-military U.S. businesses and impose costs and regulatory burdens.

Nevertheless, the treaty is being op-

posed by an entrenched band of foreign policy ideologues and isolationists who think the United Nations is the enemy and who say that America must be
amendments, and give this treaty the two-thirds vote it needs and deserves. The 29-year-old pursuit of a chemical weapons treaty has finally reached its moment of truth in the U.S. Senate. Few votes cast in this Congress or any Congress are likely to be more important.

The effort to achieve this treaty was launched in 1968, and its history is genuinely bipartisan. It has moved forward under Republican and Democratic Presidents alike. In 1988, the final year of the Johnson administration, international negotiations began in Geneva to build on the 1925 Geneva Protocol and try to reduce the production of chemical weapons.

In the 1970s, President Gerald Ford had the vision to take that initiative a major step forward during intense international negotiations.

President Ronald Reagan advanced it to the next stage with his efforts on arms control in the 1980s. And President George Bush is now adding his presidency to the effort of eliminating chemical weapons, for making it a serious worldwide effort, and at long last bringing it to the stage where it was ready to be signed. In one of his last acts as President, George Bush signed the treaty, on January 13, 1993.

President Clinton formally submitted the Chemical Weapons Convention to the Senate for its advice and consent later that year. Now, it's our turn.

Today, the Senate can and should join the United States to destroy its chemical weapons production.

When President Bush signed the treaty on behalf of the United States, he also ordered the unilateral destruction of the U.S. stockpile of these weapons. Regardless of the treaty, the United States is destroying its chemical weapons on stockpile.

Today culminates many years of work and compromise. The Senate has held 17 hearings on the convention. Every issue has been exhaustively analyzed. The result is the shoot-out that the leadership has arranged today on this series of killer amendments.

Bipartisan negotiations have achieved agreement on 28 amendments to the treaty, none of which go to the heart of the treaty and many of which help to clarify it. But five major issues have not yet been settled. The five amendments, on which we are voting today, seek to settle differences of opinion the wrong way. They are killer amendments. I hope the Senate will note "no" on all of them. If any of them passes, it will doom our participation in the treaty, and relegate us to the company of outlaw regimes like North Korea and Libya, who also reject the treaty.

Two of the killer amendments condition our participation on whether other nations—Russia, Iran, Iraq, Syria, and China—have already become participants. Essentially, they would hand over U.S. security decisions to those nations.

A third killer amendment arbitrarily excludes all representatives from certain other countries from participating in verification inspections. This amendment ignores the ability that the treaty already gives us to reject any inspectors we believe are not trustworthy.

A fourth killer amendment omits and alters other key parts of the treaty that are essential to control of certain materials. Its proponents fear that rogue nations may gain valuable technology from us.

Nothing in the convention requires the United States to weaken its export controls on chemical industry, trade organizations, and government officials have worked to ensure that nothing in the treaty threatens our technology and industrial power.

The fifth killer amendment places an unrealistically high standard of verification on the treaty. It requires the treaty verification procedures to accomplish the impossible, by being able to detect small, not militarily significant, amounts of dangerous chemical materials.

No international agreement can effectively police small amounts of raw materials that might possibly be used in chemical weapons production. Every effort will be made to make the detection procedures as effective as possible. It is hypocritical for opponents to attempt to scuttle this treaty because they feel it does not go far enough.

The overwhelming majority of past and present foreign policy officials, military leaders, large and small businesses, Fortune 500 companies, Nobel laureates, veterans organizations, religious groups, environmentalists and public interest groups are united in their support of the convention. It is a practical international agreement with practical benefits for the United States, and the United States should be a part of it.

Mr. BIDEN. Mr. President, how much time do I have on this amendment?

The PRESIDING OFFICER. The Senator from Delaware has 5 minutes 45 seconds.

Mr. BIDEN. Mr. President, unless there is someone in opposition, I yield as much time of the remaining time that my colleague from Pennsylvania would like to the Senator from Pennsylvania, Senator SPECTER.
And the search and seizure provisions are adequate to protect constitutional rights, a field I have had substantial experience with as a district attorney, so that there will have to be a criminal standard of probable cause.

Taken as a whole, with the additions by the President today—even though it had been made a part of the RECORD, I ask unanimous consent that, following my comments, the President’s letter to Senator LOTT be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1)

Mr. SPECTER. All factors considered, this is a treaty which ought to receive Senate ratification.

E X H I B I T 1


Hon. TREN'T LOTT,
Majority Leader, U.S. Senate, Washington, DC.

Dear Mr. Leader: During Senate ratification proceedings on the Chemical Weapons Convention (CWC), concerns have been raised over Article X, which provides for certain types of defensive assistance in the event that a State that has joined the treaty and renounced any chemical weapons (CW) capability is threatened with or suffers a chemical weapon attack. I believe this provision should be made consistent with Article VI of the Convention, which encourages free trade in non-prohibited chemicals among states that adhere to the CWC. Some have suggested that these Articles could result in the CWC promoting, rather than stemming, CW proliferation despite States Parties’ general obligation under Article I “never under any circumstance to receive, encourage, or produce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention.”

To respond to these concerns, the Administration has worked closely with the Senate to develop conditions relating to bothArticles that have now been incorporated in the resolution of ratification (Agreed Conditions 7 and 15). These two conditions would substantially reinforce and strengthen the treaty by:

- Prohibiting the United States under Article X from (a) providing the CWC organization with funds that could be used for chemical weapons defense assistance to other States Parties; and (b) giving certain states that might join the treaty any assistance other than medical antidotes and treatment.
- Requiring the President to (a) certify that the CWC will not weaken the export controls established by the Australia Group and that each member of the Group intends to maintain such controls; (b) block any attempt within the Group to adopt a contrary position; and (c) report annually as to whether Australia Group controls remain effective.

With these latter conditions accepted, I am pleased to inform you that we have now received official confirmations from the highest diplomatic levels in each of the 30 Australia Group nations that they agree that the Group’s export control and nonproliferation measures are compatible with the CWC and that they are committed to maintain such controls in the future.

While supporting these guarantees and safeguards, you expressed the concern on Sunday that nations might still try to use Article XI to take proscribed equipment or information that could undercut U.S. national security interests, notwithstanding the best efforts of U.S. diplomacy to prevent such actions. I am, therefore, prepared to provide the following specific assurance related to these two Articles:

In the event that a State Party or States Parties to the Convention act contrary to the obligations under Article I by:

(A) using Article X to justify providing defensive CW equipment or information to another State Party that could result in U.S. chemical protective equipment being compromised so that U.S. warfighting capabilities in a CW environment are significantly degraded;

(B) using Article XI to justify chemical transfers that would make it impossible for me to make the annual certification or information to the Australia Group remains a viable and effective mechanism for controlling CW proliferation; or

(C) carrying out transfers or exchanges under either Article X or XI which jeopardize U.S. national security by promoting CW proliferation:

I would, consistent with Article XVI of the Convention, regard such actions as extraordinary events that have jeopardized the supreme interests of the United States and therefore, in consultation with the Congress, be prepared to withdraw from the treaty.

Sincerely,

BILL CLINTON,

The PRESIDING OFFICER. The Senator from Delaware has 1 minute remaining.

Mr. BIDEN. Mr. President, let me just take the minute to say the following: If you do not like this treaty and you are not for it, vote against it. If you think this treaty makes sense, vote for my amendment, because if this treaty contains this provision it is dead. This is a so-called killer amendment.

So those of you who have concluded you are not going to vote in the final analysis for this treaty, vote no. Those of you who have decided you want to vote for this treaty—to cut through it all—vote yes. I mean, it really is that basic, because if my motion fails to strike, this treaty is dead.

I yield back the remainder of my time.

Mr. HELMS. The yeas and nays have been ordered. All time, if my colleague from North Carolina is prepared to yield back his time, I am prepared to vote.

Mr. HELMS. Mr. President, that is all I have.

Mr. BIDEN. Mr. President, let me make one other comment. While I am a supporter of the CWC, I am not a supporter of the language in Amendments 48 and 49, which are so-called killer amendments.

The amendment (No. 48) was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Mr. BIDEN. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, how much time is reserved for the Senator from Vermont?

The PRESIDING OFFICER. The Senator has 4 minutes remaining on the resolution.

Mr. LEAHY. Mr. President, for the benefit of my colleagues, I will be very brief. Mr. President, I appreciate efforts of the Senator from Utah to get an order, and that is no more than I could expect for somebody that bears certain similarities to the Senator from Vermont.

Earlier, the distinguished Senator from Delaware read a long list of staff and Senators and others who deserve praise for getting us as far as we are. The name of the distinguished Senator from Delaware is not notably absent, and I think that those who support the CWC owe a debt of gratitude to the Senator from Delaware. In the customary practice, he left his own name off, but if I might add his name to the record and put it in.

Mr. President, I am, as you know, a supporter of the CWC. Again, I compliment what we have done. As in the test ban treaty, when countries were not coming forward, the United States unilaterally banned their own tests and then other countries joined us—not every country that has nuclear capabilities and other countries did join us—and we brought the pressure forward for a test ban treaty.

The United States took an initiative with chemical weapons. We banned our own use, unilaterally. When we did that, other countries joined us. Not all countries, but other countries, most countries, joined us.

Now if we vote to advise and consent on this treaty we will have pressure, the pressure of the most powerful nations on earth, joined by several other countries, pressure on the few rogue countries who have not done that. I say that, Mr. President, because there is one other weapon, a weapon that kills...
and maims far more people than chemical weapons. That is the weapon of antipersonnel landmines. There are 100 million landmines in over 65 countries today. As one person told me, in their country, they clear these landmines an arm at a time. Every arm—each of which destroys an innocent civilian—almost always a civilian—is killed or injured by an antipersonnel landmine. The United States should now do the same thing they did.

The United States should do the same thing we did with chemical weapons. We should move unilaterally, ban our own use, ban our own export, ban our own production of antipersonnel landmines, expand on the Leahy legislation already passed by the House and Senate. Do that and then join with like-minded nations. There are tens of like-minded nations that have already done that.

I join with them, agree, together, that this is what we will do. It will not be every nation. It will not be some of the nations most needing to do this like Russia and China, but we will have the same moral suasion that we have with the other arms conventions we can do it with chemical weapons and should. Now let us follow exactly the same step, join with the Canadians and others and do it with antipersonnel landmines. This country is capable of it. It would be a moral step. It would be a dramatic step that would help the innocent civilians who die from that.

I withhold the balance of my time and yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, we all know full well that this administration has already testified that the CWC is “effectively verifiable.” The Director of the Arms Control and Disarmament Agency, John Holum, testified on March 22, 1994, that “the treaty is effectively verifiable” and that the Deputy Under Secretary of Defense for Policy, William Burns, and the Deputy National Intelligence Director testified on May 13, 1994. However, just because administration officials have declared the CWC to be “effectively verifiable” does not make it so.

Indeed, by making such claims the Clinton administration has done great violence to the standard of “effective verification” developed and refined by the Reagan and Bush administrations as a key criteria for arms control treaties. The definition of “effective verification” was offered to the Foreign Relations Committee by Ambassador Paul Nitze during hearings on the INF Treaty in 1988 and subsequently further refined on January 24, 1989, by ACDA’s Director, Myron Taylor. General William Burns, and again in January 1992 by Secretary of State James Baker. The components of effective verification, as defined during testimony, are: (1) a “high level of assurance” that the CWC is in compliance and the ability to detect (2) a “militarily significant” violation in (3) a “timely fashion.” That definition is the one used in this condition.

This yardstick of “effective verification” has been the standard against which every arms control treaty for the last decade has been measured. It should be the standard against which the CWC is measured as well.

For verification to be effective it must be verifiable. When Vice President George Bush put forward the first U.S.-sponsored text for the CWC, he told negotiators in Geneva on April 18, 1984, that:

“For a chemical weapons ban to work, each party must be able to verify that the other parties are abiding by it. . . . No sensible government enters into those international contracts known as treaties unless it can ascertain—or verify—that it is getting what it contracted for. I could not agree more.

In my view, this standard cannot be met by the CWC. On March 1, 1989, then-Director of Central Intelligence [DCI] William Webster stated that monitoring the CWC “is going to be costly and difficult, and, presently, the level of confidence is quite low.”

On January 24, 1989, Director Burns noted that “verification of any chemical ban is going to be extremely difficult.”

On the day the CWC was signed, submitted on March 18, 1994, states that the CWC’s verification provisions, together with National Technical Means [NTM], “are insufficient to detect, with a high degree of confidence, all activities under the Convention.”

Then-DCI Woolsey testified on June 23, 1994, that “I cannot state that we have high confidence in our ability to detect noncompliance, especially on a small scale.”

Most significantly, declassified portions from the August 1993 NIE note:

The capability of the intelligence community to monitor compliance with the Chemical Weapons Convention is severely limited and likely to continue for the rest of the decade. They key provision of the monitoring regime—challenge inspections at undeclared sites—can be thwarted by a nation’s intelligence capabilities using the delays and managed access rules allowed by the Convention.

With respect to military significance, General Shalikashvilli testified on August 11, 1994 that:

“In certain limited circumstances, even one ton of chemical agent may have a military impact . . . With such variables in scale of target and impact of chemical weapons, the United States should be resolute that the 1 ton limit set by the Convention will be our guide.

The bottom line is that a stockpile of 1 ton of chemical agent can prove of military significance. Unclassified portions of the NIE on U.S. monitoring capabilities indicate that it is unlikely that the United States will be able to detect or address violations in a timely fashion, if at all, when they occur on a small scale. And yet, even small-scale diversions of chemicals to chemical weapons production are capable, over time, of yielding a stockpile far in excess of a single ton. Moreover, few countries, if any, are engaging in more than small-scale production of chemical agent. For example, according to today’s Washington Times, Russia may produce its new nerve agents at a pilot plant in quantities of only 55 to 110 tons annually.

In other words, the intelligence community has low confidence in the ability to detect in a timely fashion the covert production of chemical weapons which could produce militarily significant quantities. We should not cheapen the norm of effective verifiability by claiming that the CWC meets this standard—for it patently does not.

In conclusion, verification of the CWC is plagued by the fact that too many chemicals are dual-use in nature. Chemicals used to make pen ink can be used to make deadly agent. It is impossible to monitor every soap, detergent, cosmetic, electronics, varnish, paint, pharmaceutical, and chemical plant around the world to ensure that they are not producing chemical weapons, or that toxic chemicals are not being diverted to the production of weapons elsewhere. Countries such as Russia are well aware that if they ratify the CWC, they can cheat with impunity. Indeed, on May 6, 1996 the Defense Intelligence Agency informed the chairman of the Senate Select Intelligence Committee that Russia intends to maintain the capability to produce chemical weapons, regardless of whether or not it ratifies the CWC.

The Senate, therefore, should not agree to this treaty until U.S. intelligence capabilities have caught up with President Clinton’s Wilsonian idealism.

Finally, I will say a word or two about the counter-arguments we have heard on this condition. Patently ignoring the conclusions of the Joint Chiefs, the administration has claimed that the right standard for detecting violations is not 1 metric ton, but a “large-scale, systematic effort by a potential adversary to equip its armed forces with a militarily significant chemical warfare capability ***” It is absurd to say that if the intelligence community has high confidence in its ability to detect “any large-scale, systematic effort by a potential adversary to equip its armed forces with a militarily significant chemical warfare capability ***” the CWC is effectively verifiable.

I have no doubt that it would be difficult to conceal the existence of a program to produce the scope and size of the former Soviet Union’s for example. But not one of the countries that currently envision a need for chemical weapons intends to wage World War III and conquer Western Europe. Not one of them.

Again, let me reiterate just how ridiculous this argument is. Nobody—not Russia, China, Iran, Iraq, Libya, Syria, India, Pakistan, Egypt, or North Korea—is engaged in a large scale effort...

Indeed, such a certification is inherently contradictory since a country desirous of developing a militarily significant stockpile of chemical agent...
need not engage in a large-scale, systematic effort. The Chairman of the Joint Chiefs of Staff, General John Shalikashvili, testified before the Armed Services Committee on August 11, 1994, that:

Even one ton of chemical agent may have a military impact. ... With such variables in scale of target and impact of chemical weapons, the United States should be resolute that the 1 ton limit set by the Convention will be our guide.

In other words, the production of 1 militarily significant ton of agent does not most large-scale programs to knock out every key logistical node in Saudi Arabia, Saddam Hussein needs only a handful of SCUD's with chemical warheads. He does not need an elite force of infantry trained in chemical weapons combat.

Accordingly, the intelligence community's confidence in its ability to detect the annual production of 1 metric ton in a timely fashion is the benchmark question by which the Senate should assess the verifiability of the CWC. I urge the Senate to reject this motion to strike and to uphold President Reagan's standard of effective verifiability.

Mr. President, I ask that Senator Shelby of Alabama be recognized next for 10 minutes. Does the Senator have somebody?

Mr. BIDEN. Mr. President, if I could ask a parliamentary inquiry. A lot of our colleagues are looking to determine when the final vote will take place. It is my understanding that the Senator from Delaware has the option to move to strike three more conditions, one relating to intelligence verification, one relating to inspectors, and one relating to articles X and XI. On each of those motions the Senator from Delaware, there is an hour reserved, equally divided, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BIDEN. The attempt is being made, as we speak, to reduce the time on those amendments. I respectfully suggest that on the next amendment that I am going to move—my intention was to move to strike the intelligence provision—or verification, I should say, No. 33, and that instead of an hour equally divided on that amendment, I respectfully suggest we have 20 minutes equally divided on that amendment. Is that all right with the Senator?

Mr. HELMS. That will be fine, from this point. I will consume a few minutes.

Mr. BIDEN. In other words, the Senator has already spoken on the intelligence issue. The time he has spoken on it would be taken out of the 10 minutes that we are about to agree to on the amendment that has not yet been sent to the desk. The Senator was under the impression I already sent the amendment to strike.

Mr. PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 49. Beginning on page 65, strike line 25 and all that follows through line 3 of page 67.

Mr. BIDEN. Mr. President, I ask unanimous consent that the time consumed by the Senator from North Carolina in his previous speech be deducted from the 10 minutes of time allotted to his side, and that 10 minutes remain on the side of the Senator from Delaware on this amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Reserving the right to object.

Mr. BIDEN. I ask unanimous consent that there be a total of 20 minutes on this amendment equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, on this amendment, of my 10 minutes, I will yield 7 minutes to the Senator from Rhode Island. But prior to doing that, let me say briefly what this amendment does.

This amendment strikes a condition in the treaty that sets a verification standard that, if it were in the treaty, would not be able to be met; therefore, it would kill the treaty. I will not speak more at this time. I yield to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. HELMS. Mr. President, just a moment. I must leave the Chamber for a few minutes. After the Senator from Rhode Island has concluded, I ask unanimous consent that the Senator from Alabama be recognized to consume our 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island.

Mr. CHAFFEE. Mr. President, I strongly support the Chemical Weapons Convention, a treaty which serves our national security interests in a number of ways. U.S. ratification would help set an international standard that would put political pressure on outlaw nations to rid themselves of chemical arsenals. This treaty will also give our intelligence community valuable new tools to combat illicit production of deadly chemicals, even among nations that do not ratify the convention.

Mr. President, ratification of the Chemical Weapons Convention by the Senate this evening would continue our Nation's proud tradition of leadership in the field of international security. We took the lead in the formation of NATO, on the containment of com-
various sources around the world to amass an abnormal supply of chemicals. Our intelligence community has, in fact, indicated on a number of occasions that this convention will provide another tool to the U.S. inventory of ways to slow a worldwide expansion of chemical weapons capability. In brief, the Chemical Weapons Convention will supplement—it will not replace, but it will add to—ongoing efforts to monitor chemical weapons production worldwide.

Now, critics of this treaty claim it is unverifiable, that we will not be able to catch adversaries abroad who cheat. But they also allege that the CWC's verification regime, while too weak to catch those cheaters abroad, is too intrusive for American industry. In other words, it won't let us find anything abroad, but it is too intrusive for other nations as far as inspection in the United States. They can't have it both ways.

The fact is that the Chemical Wea-
pons Convention's verification tools—in other words, how to determine whether there are weapons in other countries—go beyond those of other arms control treaties that we have approved in the Senate in the past. No treaty will ever be able to verify totally a ban on chemical weapons. Condition No. 33 is impossible to meet. The condition that is in this, which we are seeking to strike, is an impossible condition to meet. It serves no purpose other than to prevent the ratification of the Chemical Weapons Convention treaty. So I urge my colleagues to support the motion to strike this amendment.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, I rise to address the issue of verification, and in opposition to the motion to strike condition No. 33 contained in the resolution on ratification, relating to effective verification.

I have a number of serious concerns with respect to the Chemical Weapons Convention. As chairman of the Senate Intelligence Committee, however, I have a particular responsibility to ensure that any treaty ratified by this body can be effectively verified by the intelligence community.

If it cannot be verified, the CWC could become the means by which CWC member states, such as China and Iran, expand and enhance—rather than re-nounce—their CW capabilities.

In negotiating the INF Treaty, ratified in 1988, President Reagan set forth an eminently reasonable standard to guide the negotiation and implementation of arms control agreements. "Trust," he said, "but verify."

But I am afraid that the critical, second part of President Reagan's formula seems to have been forgotten with respect to this treaty. The CWC, and especially the verification regime, is based on the triumph of hope and trust over experience and history.

In its efforts to obtain ratification, the administration has—if I may borrow a phrase from a former vice-chairman of the committee, Senator MOYNIHAN—"defined verification down."

Condition No. 33 to the resolution of ratification seeks to correct that problem. It conditions deposit of the U.S. instrument of ratification on a Presidential certification to Congress that the treaty is effectively verifiable.

This term, as used in the resolution, contains the following elements, based on the traditional definition of "effective verification":

A "high degree of confidence" in our ability to detect:

- "Militarily significant violations"—meaning one metric ton or more of chemical agent—
- "In a timely fashion,"—meaning detection within 1 year—and
- Declaration of patterns of marginal violation over time.

Effective verification is ultimately a political judgment that must be made by the President and his national security advisors. However, a key input to this decision is the judgment of the intelligence community. It is currently impossible to reconcile the above definition of "effective verification" with the intelligence community's own verification over the past 4 years, which is why condition 33 calls for a new Presidential certification.

I would like to briefly restate the intelligence community's key conclusions as to the verifiability of the CWC, as set forth in recently declassified material from the National Intelligence Estimate of August 1993:

The capability of the Intelligence Community to monitor compliance with the Chemical Weapons Convention (CWC) is severely limited and is likely to remain so for the rest of the decade.

Our intelligence community is the most capable in the world today. It enjoys extensive and powerful intelligence assets and employs an impressive array of assets to collect information affecting our national security. Yet with all of the sophisticated assets at our disposal, we cannot be confident of verifying this treaty...

And some of the most promising new intelligence methods which might have improved this score over the last 4 years, have been significantly under-funded by this administration.

We should allow verification required by condition 33 as an opportunity for the President to tell us of his plans to invest in improvements to our technical collection capabilities to enable effective verification.

Therefore, I support condition 33 of the resolution of ratification, and oppose the motion to strike. While most will acknowledge that we do not have the technical intelligence capabilities currently in place to provide effective verification, the proponents of the treaty place great stock in the contribution of the verification mechanisms contained in the treaty.

For example, the creation of the Organization for the Prohibition of Chemical Weapons (OPCW), and the ability of OPCW inspectors to carry out challenge inspections of suspected violations, are cited as evidence for a mechanism of effective verification.

In an unclassified excerpt from the 1993 NIE on verification, the intelligence community states that:

The key provision of the monitoring regime—challenge inspections at undeclared sites—can be thwarted by a nation determined to preserve a good secret program by using the delays and managed access rules allowed by the convention.

Those, Mr. President, are not my words. Those are the words of the intelligence community describing its ability to monitor compliance with the treaty before us.

I point out to my colleagues, in light of the fact that the National Intelligence Estimate from which I have quoted is dated August 1993, that the Acting Director of Central Intelligence, George Tenet, and other intelligence officials have confirmed on numerous occasions that the key judgments cited above are correct.

In an open hearing on February 5 of this year, I asked George Tenet, the acting Director of Central Intelligence, about the verifiability of the CWC. Our discussion went, in part, as follows:

Mr. SHELBY. Mr. President, the treaty before us today is deficient in many respects: both in what it does, and in what it fails to do.

As chairman of the Senate Intelligence Committee, I must therefore conclude that the greatest flaw with the CWC is that, absent a certification of effective verification, we cannot even know if it is doing what it is supposed to be doing, and we cannot know the extent to which it is failing to do what it should do: This treaty is unverifiable.

Therefore, I support condition No. 33, and oppose the motion to strike.

If I have any time left, I yield it to the distinguished Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I thank the chairman for yielding to me.

Mr. President, I rise in opposition to the motion to strike condition 33, relating to effective verification.

As a member of the Senate Select Committee on Intelligence, I believe I have a responsibility to ensure that this treaty can be effectively verified by the intelligence community.
If the CWC cannot be verified to ensure that it will, in fact, eliminate the scourge of chemical weapons, then what is the point of ratifying it?

In fact, the CWC may well make things worse, not better. Some signatory nations, perhaps out of fear, might use the technology-sharing provisions of titles X and XI, combined with the cloak of international respectability they gain by joining the CWC, to advance their CW programs and exports.

Conciseness of the resolution of ratification seeks to address the verifiability problem, by requiring the President to certify to the Congress that the CWC is effectively verifiable before submitting the U.S. instrument of ratification.

Mr. President, we have all heard what the intelligence community said about the verifiability of the CWC in its National Intelligence Estimate of August 1993, but I think this judgment is worth repeating:

The capability of the Intelligence Community to monitor compliance with the Chemical Weapons Convention (CWC) is severely limited and likely to remain so for the rest of this decade.

If that judgment has changed, the President should be able to provide the necessary certification. But as we well know, and as the Acting Director of the CIA George Tenet has confirmed on several occasions, that judgment has not changed. With all the assets at our disposal, the intelligence community still cannot verify compliance with this treaty.

The Senate has already discussed the classified aspects of our intelligence and verification capabilities in considerable detail in closed session, and I cannot add anything to that debate now.

What I would like to do, is provide an example of the way in which a determined proliferator can evade, and defect, what is perhaps the most extensive scrutiny ever imposed on an uncaptured nation in peacetime. I am referring, of course, to Iraq.

Iraq is exhibit A for a number of propositions. First, Iraq is the very model of a rogue state. It is a country that has not only developed chemical and biological weapons [CBW], and come within a hair's breadth of producing a nuclear device, but has actually used chemical weapons against Iran, and against its own citizens.

Second, as a nonsignatory to the CWC, Iraq is one of those countries that will not be constrained by the CWC, and will proceed apace with the production of chemical weapons.

Third, and this is the point I wish to focus on, Iraq is the most current example of the effectiveness—or the lack thereof—of even the most intrusive international monitoring.

Treaty supporters point to the Organization for the Prohibition of Chemical Weapons [OPCW]—and even will the ability of OPCW inspectors to carry out challenge inspections of suspected violations—as a means of effective verification.

Yet the intelligence community concludes, in an unclassified excerpt from the 1993 NIE, that:

The key provision of the monitoring regime—challenge inspections at undeclared sites—can be thwarted by a nation determined to keep a small, secret program by using the delays and managed access rules allowed by the convention.

Acting CIA Director Tenet reiterated that judgment in a letter to Senator Kyl, dated March 26, 1997.

In the years since the end of the Persian Gulf war, weapons inspectors from the U.N. Special Commission [UNSCOM] have combed Iraq in search of nuclear, chemical, biological, and missile production and storage sites; inspectors armed with powers far greater than those of OPCW inspectors, I might add.

Despite this extraordinary level of scrutiny, Iraq is believed to retain chemical weapon precursors and production equipment, and possibly large quantities of deadly VX agent and munitions; BW cultures, production equipment, agent, and weapons. These stocks can be used to create a large stockpile in a matter of days; and an operational SCUD missile capability, including support vehicles, launchers, fuel, operational missiles, and, most alarming of all, possible chemical or biological warheads.

Last, Iraq retains nuclear weapons blueprints, missing.Scud tools, and know-how; is believed to be continuing its nuclear weapons design work; and probably has the ability to create a nuclear weapon—if it obtains fissile materials—with very little warning.

Mr. President, I am not reciting this information in order to criticize UNSCOM. I commend Ambassador Rolf Ekeus, and the dedicated UNSCOM inspectors, for their persistence in the face of determined Iraqi resistance and intimidation.

But if these are the results of 6 years of international monitoring of Iraq—a pariah country, defeated in war, and subjected to massive invasions of its national sovereignty—then I wonder what the OPCW inspectors, with their far more limited powers, can realistically hope to accomplish in other countries?

As a final note, I should remind my colleagues that before the gulf war, Iraq was a member in good standing of the International Atomic Energy Commission, or IAEA, subject to all the usual IAEA inspections and safeguards.

Yet Saddam Hussein was within months of having a nuclear weapons capability on August 2, 1990, when he invaded Kuwait. Had Saddam waited until he had a nuclear device, Kuwait might yet be the 19th province of Iraq—and tens of thousands of people, including thousands of American soldiers, might have died.

Mr. President, we have all heard from the authors of this condition of a single metric ton of chemical material—which we think we are in the world with regard to these developments. Let me be clear. The United States has made a decision that we are going to destroy our chemical weapons and try to lead the world in the elimination of chemical weapons. That is what this policy is all about. We didn't have this treaty presented to us. We made a conscious decision to eliminate our own chemical weapons and then try to develop a regime that enables us to identify and detect as much as possible. Our Director of Central Intelligence, as well as our military, in the IAEA, takes it that we will increase the identification that we are able to do and increase the likelihood that we will be able to end up with the result being that we have no chemical weapons in any military arsenal on this planet.

No treaty is absolutely verifiable. Condition 33 make verification more difficult by setting a level of identification, we do not need to benefit from the convention. Far more important to our security are the improvements to our identification efforts we stand to gain under the CWC.

Verification is a political decision made by policymakers. To make this
decision, our intelligence agencies will need to provide evidence to support a conclusion made by policymakers. The benefits we will receive under the CWC come from our increased ability to identify whether a nation is developing, storing, producing, or using chemical weapons. Under the CWC’s routine and challenge inspections, we will be better able to identify the storage and destruction of declared chemical weapon stocks. We will also be better able to identify nations’ attempt to develop the infrastructure to handle chemical weapons and any military training in the use of these weapons.

U.S. intelligence officials have stated that the CWC will add to their monitoring tools to counter the chemical weapons threat. Data declarations will provide evidence of compliance or non-compliance, routine inspections make it more difficult and costly to use legitimate facilities to produce chemical weapons, and challenge inspections will give the United States the opportunity to seek further indications and evidence under the CWC. In addition, the CWC will help stymie chemical weapons development by non-signatory, rogue nations by restricting trade in key precursor chemicals to non-parties. Acquisition efforts for chemicals, technology, and equipment by non-signatories will provide the U.S. with tools to pursue compliance concerns with parties who may be the source of the materials.

These are real benefits to our identification efforts that will help ensure the safety of our troops and citizens. However, if we impose an impossible standard of verification and fail to ratify the CWC, we will lose these benefits.

Further, condition 33 creates an arbitrary definition of what is a “militarily significant” amount of chemical weapons. This condition deems one metric ton of chemical weapons to be a threat to our military. But General Shalikashvili, Chairman of the Joint Chiefs of Staff, has testified that “a militarily significant quantity of chemical weapons is situationally dependent.” It depends on the terrain, the weather, the number of troops, the type of chemicals used, how the chemicals are delivered, and the chemical weapons defensive system of the targeted forces. He stated that, “The quantity is totally scenario dependent, and it would be difficult to cite a specific quantity that is militarily significant.” During the Iran-Iraq war, both sides used tens of tons against each other without altering the course of the war. The Defense Department found that it would take several hundred to a thousand metric tons of chemical weapons to seriously disrupt U.S. logistics in a war; and the United State’s own stockpile of chemical weapons, which we are committed to destroy with or without the CWC, is about 30,000 metric tons. One metric ton of chemical weapons, while still posing a horrible threat under some conditions, in no way is a militarily significant threat to our national security.

Without the CWC, chemical weapons production and stockpile on a small or grant scale will still be an acceptable practice. Under the CWC, not only will this no longer be acceptable, but we will have additional tools in our arsenal to identify chemical weapons programs. NPT will lead us to monitor this threat whether or not we join the CWC, our security interests are improved under the treaty rather than without it.

This condition must be removed from the resolution if the United States is to participate in the Chemical Weapons Convention. Therefore, Mr. President, I support striking condition 33 from Executive Resolution 75.

Mr. President, and colleagues, I believe strongly that this particular condition, regardless of how you feel about the treaty, sets an unrealistic level of requirement for verification, and under no circumstances are we going to be able to verify a ton of chemical weapons under the CWC. We do not need to accept this kind of arbitrary standard.

Mr. President, regardless of whether or not you are going to vote for or against this treaty in the end, I urge my colleagues to vote to strike condition 33.

Mr. BIDEN. I yield myself 1 minute on the time left.

The PRESIDING OFFICER (Mr. SENSES). The Senator from Delaware.

Mr. BIDEN. Mr. President, let’s get this straight. Verification is about whether or not we can know whether or not our security interests are going to be put in jeopardy. A useful chemical weapons capacity requires a lot more than just whether or not you can produce illicit chemical weapons. It requires a delivery system, infrastructure, storage, and use of chemical weapons. It includes defense preparations, extra security around the storage areas, and training and exercising of troops who will use those weapons. It goes on and on.

The ability to put together a chemical weapons capability to go undetected that will diminish our security is not real.

I yield back the time and ask unanimous consent that we defer a vote on this amendment at this moment, that we turn to my next motion to strike, which will relate to inspectors, condition 31, and on condition 33 and on condition 31 be stacked after the conclusion of the debate on condition 31, with 15 minutes on the first vote, 10 minutes on the second vote, and with 1 minute intervening.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 50

(Purpose: To strike condition no. 31, relating to the exercise of right to bar certain inspectors)

Mr. BIDEN. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 50, on page 65, lines 1 and all that follows through line 4 of page 65.

Mr. BIDEN. Mr. President, let me also say for the benefit of my colleagues that we are trying to accommodate schedules. I thank the Senators from Arizona and Georgia, we were running around trying to get their agreement. At the conclusion of the two rollov votes—we are trying to get additional time on one amendment relating to articles X and XI, and we have an hour set aside for it now and we hope to reduce that time. At the conclusion of that vote we would then go to final passage, although there probably may be a few minutes intervening because each has some time left. That is the objective. Some are trying to catch planes and trains and the like.

Mr. President, let me suggest quickly what this does. The amendment that I sent to the desk strikes a condition which unilaterally says at the front door we will not accept any inspector from such states as China, Iran, and Iraq, et cetera, if they are signatories to the treaty. If they have deposited their instruments of ratification, now they are in the deal. We are saying, if they are in, we will not allow any inspector from their countries to be any part of a team that would inspect U.S. facilities.

The intention is obvious, and it is laudable. The intention is to keep the bad-guy inspectors out because we are worried that what they would do is send over an intelligence officer as part of that inspection team, learn all secrets from us and take them back home. It is not likely that can happen anyway. But let’s assume it did. The intelligence community says this is a very bad idea. The reason it is a bad idea if we do that, Mr. President, is every other country will issue a blanket rejection of any U.S. inspectors. We are the class of the field. You have heard all day—and in the closed session—my colleagues expressing their concern about verification. The more we have American inspectors involved, the more likely we are to be able to detect wrongdoing because we are the class of the field. We don’t want to be excluded across the board from being on any inspection team. So, therefore, this is intended to do something good but is extremely counterproductive. It is counterproductive, the intelligence community says so as well.

But beyond that, it is unnecessary. There is a provision. In the interest of time—we were going to have an hour of debate; I was going to put all of this out to you—but in this treaty there is a provision that says the United States, or any other country, can at any time strike an inspector. The way this works, as most of our colleagues
inspectors from foreign countries unprecedented access to U.S. facilities, both commercial and Government-related. Inspectors would be permitted to interview site personnel, inspect records, photograph onsite apparatus, take samples, record readings of plant equipment from their computers to monitor processes. The risk that trade secrets or national security secrets could be stolen during inspection is very high.

First, proprietary information is often the basis for a chemical company’s competitive edge. Industrial espionage can enable a competitor to obtain at a minimal cost information that its originator acquired only through an enormous investment of time and money, thereby erasing the company’s competitive advantage. For this reason, the theft of trade secrets can cripple even a giant company and can be fatal to a smaller enterprise.

Second, because chemicals covered by the CWC are used in a variety of aerospace activities, from the manufacture of advanced composites and ceramics to additives for paints and fuels, dozens of defense contractors are targeted for routine inspections under the CWC. We should have the ability to bar these inspectors from coming to the United States to engage in this espionage. In addition, it would prevent inspectors from countries that have violated U.S. nonproliferation laws. You are from these countries that have violated U.S. nonproliferation laws. You are targeted for routine inspections under the CWC. That means that when we are talking about proprietary information, we may also be talking about national security information.

A company such as Lockheed Martin, Courtaulds, Hercules, Raytheon, and the Hexcel Corp. will be forced to allow foreign nationals access to their facilities, employees, and records. Our national laboratories further could be inspected under this treaty, as will Government facilities.

Previous national trial inspections conducted in the United States in preparation for the CWC revealed that inspections under the treaty are an extremely dangerous threat to sensitive information. Soil and water samples were collected in the vicinity of rocket propellant production facilities on one such inspection. They were analyzed at the Lawrence Livermore National Laboratory. Using modern techniques, analysts were able to discern classified information about the formulation of the rocket propellant and the process used to make it.

Finally, Mr. President, China and others likely intend to use CWC inspections for espionage purposes. They should not be allowed to do that. The officials of the preparatory commission for the Organization of the Prohibition of Chemical Weapons, the OPCW, have stated that all of the Chinese inspectors were directed to volunteer for the Organization and that these inspectors have direct ties to China’s defense chemical warfare program. Accordingly, and the point of this condition, the Senate should uphold this provision which would direct the administration to exclude the United States treat right as the Senator from Delaware pointed out, we have this right under the treaty—we are simply directing the President to exercise this right to bar inspectors from China, which has an active industrial espionage program and has violated United States nonproliferation laws, from entering the United States to engage in these inspections. In addition, it would prevent inspectors from countries which are hostile to the United States and are state sponsors of terrorism—Iran, Iraq, Syria, Libya, Sudan, North Korea, and Cuba—from participating in these inspections.

Mr. President, I do not think this is an unreasonable provision. There is no downside to the provision, only the positive potential that fewer trade and national security secrets would be handed over to countries that are openly hostile to the United States. Therefore, I urge the Senate to reject the motion to strike.

At this time I yield the remaining time to the distinguished majority leader.

Mr. LOTT. Could I inquire about how much time is remaining?

Mr. LOTT. Mr. President, I have already stated my position. I do think we should vote to ratify this convention, but I think we should defeat this motion to strike. This is not a killer amendment. This is very serious, where we are just saying that we should have the ability, to bar these inspectors from these countries that have violated U.S. nonproliferation laws. You are talking about inspectors from so-called, as the Secretary of State has called them, “rogue nations” that want to come in here and get into finding information that could help them to further contribute to proliferation.

So I urge the Senate on this motion to vote to defeat the motion to strike. We should have the ability, we should as a matter of fact I think require that we bar these inspectors from coming into this country when they are contributing to the problem all over the world. So I yield the remainder of my time.

Mr. BIDEN addressed the Chair.

Mr. BIDEN addressed the Chair. The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I yield myself 30 seconds off my time on the bill, Mr. PRESIDING OFFICER. The Senator is recognized for 30 seconds.

Mr. BIDEN. Mr. President, I would have the ability, the priority should have the ability, to bar these inspectors from coming into this country when they are contributing to the problem all over the world. So I yield the remainder of my time.

Mr. BIDEN addressed the Chair.

Mr. BIDEN addressed the Chair. The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I do not think this is a killer amendment. This is not fair to the United States. Therefore, I urge the Senate to reject the motion to strike.
Mr. KYL. Mr. President, let me summarize the argument the majority leader and I made in opposition to the motion to strike this condition.

The treaty currently provides for the President to say that he does not want inspectors from certain countries coming into the United States. There is a reason for that. What we are doing is directing him only in two cases to, in advance, say, these are the countries covered: Those countries that sponsor state terrorism, pursuant to our definition of that in China because of its violation of another law.

So it is only those countries that have violated American law and who are the state-sponsored terrorists who can be denied inspectors in the United States.

The PRESIDING OFFICER. The time has expired. Under the previous order, the question now occurs on agreeing to the Biden amendment No. 50. They yeas and nays have been ordered. The assistant legislative clerk called the roll.

The result was announced—yeas 56, nays 44, as follows:

[Rollcall Vote No. 49 Ex.]

YEAS—56

Akaka          Feingold          Lieberman
Baucus        Feinstein        Lugar
Biden          Ford             McCain
Bingaman        Franks          Mikulski
Boxer          Glenn            Moseley-Braun
Breaux          Gorton           Moynihan
Bryan          Graham           Murray
Bumpers        Hagel            Reed
Byrd            Harkin          Robb
Chafee        Harkin           Robb
Cleland        Hollings        Roberts
Coats           Inouye          Rockefeller
Cochran      Jeffords           Roth
Collins       Johnson           Santorum
Conrad          Kennedy         Sarbanes
D’Amato       Kerrey            Smith (MI)
Daschle         Kerry           Snowe
DeWine         Kohl             Specter
Dodd           Landriez         Stevens
Domenici       Lautenberg       Torricelli
Dorgan         Leahy            Wellstone
Durbin         Levin            Wyden

NAY—44

Abraham        Gramm           McConnell
Allard          Grams            Murkowski
Ashcroft      Grassley         Nickles
Bennett        Gregg            Sessions
Bond             Helms           Shelby
Brownback    Hutchinson       Smith (NH)
Burns            Hutchison       Thomas
Campbell        Inhofe          Thompson
Coverdell       Keating         Thurmond
Craig            Ky    Warner
Enzi              Lott           Mack
Faircloth       Mack

The amendment (No. 49) was agreed to.

AMENDMENT NO. 50

The PRESIDING OFFICER. Under the previous order—the Senator from Delaware.

Mr. BIDEN. I am sorry to interrupt the Chair. You were going to say 1 minute for explanation, is that correct, equally divided?

The PRESIDING OFFICER. That is correct.

Mr. BIDEN. Mr. President, the purpose of my amendment is to strike a provision in the bill that requires the President to disallow an inspector from any of a number of countries, from Russia to Iran.

There is in the treaty already the ability of the United States to strike any inspector. The inspectors must be named before an inspection takes place. The reason why we do not want a blanket exemption is, if we blanket exempt all those folks, they will blanket exempt any U.S. inspector.

We want inspectors in the bad guy’s country. We do not want to do this. It is counterproductive.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I let my colleagues, it then says they will ban us. We have the class of the field doing the inspection. It is not a smart thing to do, in my humble opinion.

I yield the floor.

VOTE ON AMENDMENT NO. 49

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 49. The yeas and nays have been ordered. The clerk will call the roll.

The result was announced—yeas 66, nays 34, as follows:

[Rollcall Vote No. 48 Ex.]

YEAS—66

Akaka          Feingold          Lieberman
Baucus        Feinstein        Lugar
Biden          Ford             McCain
Bingaman        Franks          Mikulski
Boxer          Glenn            Moseley-Braun
Breaux          Gorton           Moynihan
Bryan          Graham           Murray
Bumpers        Hagel            Reed
Byrd            Harkin          Robb
Chafee        Harkin           Robb
Cleland        Hollings        Roberts
Coats           Inouye          Rockefeller
Cochran      Jeffords           Roth
Collins       Johnson           Santorum
Conrad          Kennedy         Sarbanes
D’Amato       Kerrey            Smith (MI)
Daschle         Kerry           Snowe
DeWine         Kohl             Specter
Dodd           Landriez         Stevens
Domenici       Lautenberg       Torricelli
Dorgan         Leahy            Wellstone
Durbin         Levin            Wyden

NAY—34

Abraham        Gramm           McConnell
Allard          Grams            Murkowski
Ashcroft      Grassley         Nickles
Bennett        Gregg            Sessions
Bond             Helms           Shelby
Brownback    Hutchinson       Smith (NH)
Burns            Hutchison       Thomas
Campbell        Inhofe          Thompson
Coverdell       Keating         Thurmond
Craig            Ky    Warner
Enzi              Lott           Mack
Faircloth       Mack

The amendment (No. 49) was agreed to.

The PRESIDING OFFICER. The time has expired. Under the previous order—the Senator from Delaware.

Mr. BIDEN. I move to reconsider the vote.

Mr. HELMS. I move to reconsider the vote.

Mr. BIDEN. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. As I understand, there is 1 hour remaining on the last amendment of the Senator from Delaware to strike condition 32, is that correct?

The VICE PRESIDENT. The Senator is correct.

Mr. BIDEN. It is my understanding the Senator from Delaware has control of an additional 8 minutes on the bill?
what we do. The only matter we’ll decide tonight is whether we’ll be able to participate and shape banning the use, development, production, and stockpiling of chemical agents, or be cast with the pariah states that will face increasing difficulty due to permanent trade restrictions on non-CWC members.

If we want to play a leading role in at least reducing the likelihood that poison gas will be used against us or the rest of the international community, we have no choice but to ratify this convention.

Of course, there are no absolutes when it comes to arms control verification, but through the most far-reaching, extensive, and intrusive inspection procedures ever agreed to, the CWC represents a clear step in the right direction.

I do not question the patriotism of any of our colleagues who oppose ratification, but I believe we owe a special debt of gratitude to those statesmen who might find some partisan or ideological advantage in opposing ratification, but who put our country’s interest first in supporting it.

In that regard, I’d like to single out our former colleague and Majority Leader, Bob Dole, who now joins the Presidents of both parties who negotiated, signed, and submitted the convention for ratification, as well as a distinguished galaxy of present and past top-level national security leaders.

And, I would like to conclude by commending Senator Biden, the ranking member of the Foreign Relations Committee, and Senator Lugar, a longstanding expert in the area of arms control, for their leadership and tenacity these last few weeks. Due to their tireless efforts, I hope we will have the votes to ratify the CWC and signal to the world our continuing leadership, by example, to eliminate these weapons of mass destruction from the face of the earth.

Mr. President, I yield the floor.

AMENDMENT NO. 51
(Purpose: To strike condition no. 32, relating to stemming the proliferation of chemical weapons)

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. Enzi): The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment number 51.

On page 65, strike lines 5 through 24.

Mr. BIDEN. Mr. President, we now turn to the last condition that I am seeking to strike which will require the President, before he deposits the instrument of ratification, to certify that the Chemical Weapons Convention has been amended by striking article X and all other relevant provisions.

Mr. President, I apologize for the shorthand, because it does not do justice to the arguments of my friends who oppose this, but this is what we call in the trade a killer amendment. Were this to pass, there is no treaty. I will speak to that later.

With permission of the chairman of the committee, I yield to the Senator from Tasmania, who, as the old saying goes, has forgotten more about this treaty than most people know. I yield such time as he consumes.

Mr. MCCAIN. Mr. President, failure to approve the amendment proposed by the Senator from Delaware would require the United States to delay ratification of the Chemical Weapons Convention until we obtain the agreement of other CWC parties to delete one of the treaty’s articles and significantly alter another.

I believe the issue of technology transfer is a serious one because it is the one argument that seeks to demonize the CWC will actually harm the United States national security.

The critics argue because of article XI of the CWC we will have to eliminate our nation on chemical technologies and disband the Australia Group, a multilateral framework for restraining transfers of sensitive chemical technology. This interpretation of the treaty is contradicted not only by the text of the treaty which subordinates Article XI on the basic undertakings in Article I for parties not to acquire chemical weapons or to assist another state in doing so, but also by our experience with other nonproliferation treaties and the agreed consensus conditions included in the resolution of ratification before us.

First of all, Mr. President, our experience with essentially similar language in the Nuclear Non-Proliferation Treaty shows that we need not weaken our national or multilateral export controls. The Nuclear Suppliers Group, the counterpart of the Australia Group, was actually founded after the NPT went into force. Nor has the NPT obliged us to maintain our controls on the transfer of nuclear technology, even to other NPT parties. The United States enacted the Nuclear Non-Proliferation Act of 1978, 10 years after the NPT was signed.

Moreover, beyond the text of the CWC itself, we have condition 7 of the resolution of ratification before us. This requires the President to certify not only that the United States believes that the CWC does not require us to weaken our export controls but also that all members of the Australia Group have communicated at the highest diplomatic levels their agreement that multilateral and multinational export controls and chemical technology are compatible with the treaty and will be maintained under the CWC.

We also have condition 15 obliging the United States to share only medical antidotes and treatment to countries if they are attacked with chemical weapons.

Finally, we have received today from the majority leader a letter which President Clinton has sent to him committing the administration to withdraw from the CWC if other parties misuse articles X and XI of the treaty. In the words of the majority leader, this commitment is unprecedented and ironclad. Let me just remind my colleagues, Mr. President, that the President of the United States in this letter states:

In the event that a State Party or States Parties to the Convention act contrary to their obligations under this treaty by (A) using Article X to justify providing defensive CW equipment, material or information to another State Party that could result in the use or development of chemical protective equipment being compromised so that U.S. warfighting capabilities in a CW environment are significantly degraded;

(B) using Article XI to justify chemical transfers that would make it impossible for me to make the annual certification that the Australia Group remains a viable and effective mechanism for controlling CW proliferation;

I would, [the President of the United States] consistent with Article XV of the CWC, regard such actions as extraordinary events that have jeopardized the supreme interests of the United States and therefore, in consultation with the Congress, be prepared to withdraw from the treaty.

Mr. President, I do not know how we could be any clearer than that letter from the President of the United States.

Conversely, if the United States rejects ratification, I doubt that we will be able to play our traditional leadership role in attempting to persuade other chemical suppliers to exercise restraint.

The world will blame the United States for undermining a chemical weapons ban that the vast majority of other countries were willing to sign. If we reject ratification, where will we get the moral and political authority to persuade other Australian Group participants to block exports to countries of concern?

Mr. President, the supporters of this condition portray renegotiating the CWC to change these two articles as a feasible undertaking. We are talking about a new treaty with more than 160 other signatories, more than 70 of which already ratified. In this context, retired Gen. Brent Scowcroft, former National Security Adviser, recently testified:

Starting over, as was suggested this afternoon, I think it is pure fantasy. If we reject this treaty, we will incur the bitterness of all our friends and allies who followed us for ten years in putting this together. The idea that we could come out again on a different path I think is just not in the cards. We have got to deal with the situation we face now, not an ideal one out in the future.

I think that the CWC, as we have now and as strengthened by the 28 agreed additional protocol, is good enough. I urge my colleagues to adopt the amendment of the Senator from Delaware.
Mr. President, I don't—to the relief of most—intend to speak again. I want to congratulate Senator HELMS for his leadership on this issue, for his willingness to bring this treaty, which he opposed, to the floor. I congratulate Senator LOTT on his consistent opposition. He just said that I knew more about the treaty. I know of nobody who knows more details of the treaty than the Senator from Delaware, unless it is the Senator from Indiana, Senator LUGAR, who has consistently led on this issue. I agree. I believe that it is the Senator from Delaware, unless it is the Senator from Arizona, Senator KYL, who fought long and hard in this cause. He has done a masterful and admirable job in articulating his position on this issue. Our majority leader, Senator LOTT, has been through hundreds of hours of meetings and has had tough negotiations with the administration. Senator LOTT got from the President of the United States a letter which he calls unprecedented. I agree. I believe that it is something that can assure all of our citizens that if there are violations of this treaty, the United States of America will know, and will immediately hold Senator LOTT has done a job unequalled by any in his leadership on this issue. I am grateful for it.

Finally, I also want to express my appreciation to the former majority leader, Senator Dole, who, of course, decided that this issue was important enough for him to inform our colleagues. Finally, Mr. President, sometimes the Senate doesn't have great days, and sometimes the Senate has moments of which we can all be proud. I believe, watching carefully this debate for the last 2 days and what has transpired here on the floor of the Senate, I think the opponents and proponents of the treaty are proud of this debate, both in its comity and also in its content. I congratulate my colleagues on a hard-fought debate, one of which I think every Member, whether we are on the winning or losing side, can be proud.

I yield the floor.

Mr. ENZI. Mr. President, one of the charges made consistently during the weeks of debate over this treaty is the charge that supporters of this treaty desire to keep weapon abolishment from the earth, while opponents have no such interest. Nothing could be further from the truth. Opponents of the treaty also desire to see these heinous weapons abolished. We have simply contended that a poorly drafted treaty will not only fail to achieve that worthy end, but could even lead to their increased proliferation.

I am pleased to report that, as of this morning, opponents of the original treaty, Senator LOTT, have prevailed in their efforts to add two additional safeguards to what was heretofore an unacceptable document. To begin with, the Senate yesterday voted to add twenty-eight additional provisions to the CWC. These provisions tighten our intelligence sharing procedures to keep classified information out of the wrong hands, would maintain the stricter exporting restrictions as outlined in the 'August package,' would enhance monitoring and verification of compliance, and would greatly beef up our military's chemical warfare defense capabilities. In addition, the Senate leadership this morning received a commitment from the administration to be a haven in the event that it leads to the degradation of our chemical weapons defenses, or leads to chemical weapons proliferation.

I believe this treaty is now worthy of ratification and will vote accordingly. Rest assured, however, that a treaty is only as reliable as the offices administering it. Consequently I have every reason to believe that the performance of the administration and the United Nations relative to their implementation of these treaty provisions. Should any party come up short in their verification and enforcement duties, I will be right there to set them straight.

Mr. HELMS. Mr. President, I suppose, at this point, it would be an exercise in futility to go into great detail about why the Senate should reject this chemical weapons treaty. But let me touch on it. I ask the Chair to notify me when I have talked for 8 minutes.

Mr. President, this treaty won't touch—won't touch—terrorist states like Libya, Iraq, Syria and North Korea. The administration admits this itself. The administration also admits that this treaty is unverifiable. The fact that Russia is already cheating, and it's very likely to continue cheating, and the rather incredible refusal by the administration to bar inspectors from hostile nations, such as Iran and China, to come and "inspect" the businesses of the United States of America. It seems to me that these defects, in and of themselves, are reason enough to oppose the treaty.

But one in the Senate often has to face reality. Let me say this. There is one issue that has raised the greatest concern among Senators, I believe, and that is the issue on which the ratification vote should hinge—and that is the administration's refusal to modify Articles X and XI of this treaty.

Now, these controversial provisions require the transfer of dangerous chemical agents, defensive gear and know-how to any nation that joins the CWC, including—get this—terrorist states like Iran and Cuba, and known proliferators like India and Pakistan and China. Now, think of the implications of that. If anybody is out there in televiewland, I hope you will contemplate what is going on here on the Senate floor and who votes how when the call is made up yonder in just a little while.

Former Secretary of Defense, Dick Cheney, during the previous public administration, the Bush administration, by the way, told the Foreign Relations Committee earlier this month that Articles X and XI amount to what he said are "a formula for greatly accelerating the proliferation of chemical warfare capabilities around the world." Now, this condition is an essential protection in the Senate's resolution of ratification. It would make approval of this treaty absolutely contingent upon the administration's agreement to seek the elimination of Articles X and XI. You have heard me say that over and over again for the past several weeks and months. Now, I have urged Senators to oppose efforts to strip out that key protection. But here we go again. If this motion to strike prevails, it will be an invitation to the Senate to reject the treaty entirely. But I don't think the Senate is going to accept that invitation.

In any case, why should we modify Articles X and XI? The administration argues that in the face of all of its flaws, the CWC is better than nothing. Well, to the contrary. With Articles X and XI unmodified, this treaty is far worse than nothing. Instead of halting the spread of poison gas, this treaty will be used by its proliferating rogue states, like Libya, Iraq, Syria and North Korea. The administration admits this also.

Anybody who needs a road map or wants one for how this will work doesn't have to go to a lot of trouble. Just examine how Russia has taken advantage of similar provisions in the Nuclear Non-Proliferation Treaty. Russia is, at this very moment, using that treaty to justify its sale of nuclear reactors to Iran, under a provision known as "Atoms for Peace," if you will. The treaty's Articles X and XI—again, I have to chuckle when I say it—dubbed "Poisons for Peace"—if Russia or China decide, for example, to build a chemical manufacturing facility in Iran, giving that terrorist regime the chemical agents and high technology it needs to modernize its chemical weapons program, Russia and China not only could argue that they are allowed to give Iran this technology, but that they are obliged to do so under a treaty, mind you, ratified by the Senate of the United States.

In short, ratifying the chemical weapons treaty sends a signal to the world that something has been done about the proliferation of chemical weapons when, in fact, we would not have done anything at all except make bad matters worse, because Articles X and XI of this treaty—this dangerous, dangerous treaty—assure that the Chemical Weapons Convention will increase the spread of chemical weapons rather than stop it.

So this in next to the last vote of the evening, Senators have a choice. In
making that choice, I for one cannot imagine that the U.S. Senate would reject the advice of four former distinguished Secretaries of Defense, who testified that unless Articles X and XI are modified, the Senate should refuse to ratify the treaty.

Mr. President, I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mrs. FEINSTEIN. I note that the ranking was raised by one senator on the floor at the moment, Mr. President, I will yield myself 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I want to express my strong support for the motion to strike condition 32 from the resolution of ratification.

I strongly support the Chemical Weapons Convention. I believe it is very much in our national interests to ratify this treaty.

The pending motion is to strike condition 32 from resolution of ratification of the CWC. It is essential that this motion pass, because if it does not, our decision to ratify the treaty will be meaningless.

During the debate over this treaty, a number of serious concerns have been raised over Articles X and XI. I myself have shared some of these concerns. But I want to address these criticisms of the treaty now, because I believe that very solid arguments have been provided to virtually all of them.

I met at the White House last Friday with National Security Adviser Sandy Berger and Special Assistant to the President for Defense Policy and Arms Control Robert Bell, who explained these answers to me in detail, and I found their explanations persuasive.

Sharing Defense Technologies: During the April 9, 1997 hearing in the Senate Foreign Relations Committee, the concern was raised by several witnesses that Article X of the CWC would require the United States to share advanced chemical defense technologies with rogue nations like Iran, who may sign and ratify the treaty.

If indeed the treaty required that, there would be significant grounds for concern. But I believe the concern is unwarranted and unfounded.

In an April 22 letter to me, National Security Adviser Sandy Berger makes it very clear that Article X of the CWC would impose no obligation on the United States to assist Iran with its chemical weapons defense capabilities.

I ask unanimous consent that Mr. Berger’s letter be included in the Record at the conclusion of my remarks.

Mr. Berger makes clear that paragraph 7 of Article X, which spells out the obligations of States Parties to assist others threatened by chemical weapons, would require the United States to provide nothing more than medical antidotes and treatments to any state we deemed unreliable. We have the option to provide more advanced assistance to those nations we trust, but no obligation.

The Administration is so comfortable with this reading of the treaty, that, in their negotiations with Senator Helms and with the Majority Leader’s task force, they agreed to a binding condition (number 15) that would ensure that the United States will not provide any assistance other than medical assistance to any rogue nation that becomes a party to the treaty.

Another concern about Article X is that paragraph 3, which calls for parties to “facilitate * * * the fullest possible exchange” of information and technology on protection against chemical weapons, which some here have said would require the United States to share such equipment with rogue nations who sign and ratify the treaty.

The Administration has made clear that the use of the words “facilitate” and “possible” in this paragraph mean that the United States will determine whether any specific exchange is appropriate, and we will not pursue those we deem inappropriate. As these decisions, we will do nothing to undermine our national export controls.

With these assertions in hand, I am satisfied that the United States will in no way be obligated to provide chemical weapons technology to any nation we deem to be untrustworthy.

Some have also raised the concern that Article X might induce other, less conscientious nations, to supply rogue states with technologies. But there is nothing that prevents those sales from taking place today, with no CWC in effect.

Within the CWC, the countries who make exchanges allowed in Article X are legally bound by the treaty’s over- riding principle, stated in Article I, that they can do nothing to “assist, encourage, or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention.” Any country’s failure to uphold this obligation would enable the full force of over 160 nations to coalesce in support of sanctions, and possibly military action.

In addition, the CWC would provide us with far more ability to scrutinize any exchanges of chemical defense equipment than we have today. The result is a net increase, not decrease, in our knowledge. It will also provide us with the basis for further multilateral efforts to control exports, and by doing so, our own export controls and those of the Australia Group.

Furthermore, with the CWC, the countries undertaking exchanges are legally bound by the fundamental obligations in Article I—the overriding Article I of the treaty, to assist, encourage or induce in any way anyone to engage in any activity prohibited under the Convention. It must be remembered that Article I supersedes all subsequent articles of the Convention.

With this condition added to the resolution of ratification, I believe concerns about Article X can be laid aside.

In fact, the negotiations between the Administration and Sen. Biden on the one hand, and Sen. Helms and Sen. LOTT’s task force on the other, have been remarkably successful in addressing the concerns that have been raised about the treaty.

If the Administration is willing to meet the concerns of the critics of Articles X and XI, as it has, and those critics still insist on the removal of those articles as their price for ratifying the treaty, it is clear that the intent is to kill the treaty altogether.

As to the concern that Article XI will undercut export controls, indeed, the reverse is true. Mr. Berger makes clear that all U.S. export controls now in effect are fully consistent with the CWC. In addition, our allies in the Australia Group all 28 of them—pledged to maintain all existing multilateral export controls, which they agree are fully consistent with the CWC.

Here again, the problem identified by critics of the CWC would actually be worse without the treaty. The CWC will allow us to better monitor chemical commerce that occurs today without our knowledge. It will also provide the basis for further multilateral efforts to control exports, and by doing so, our own export controls and those of the Australia Group.

The Administration has agreed to a binding condition (number 7) that the President must certify now and on an annual basis that the Australia Group of 30 nations is continuing to control chemical exports effectively and remains a viable mechanism for doing so.

In addition to this condition, the President must also certify that nothing in the CWC obligates the United States to weaken our own export controls, and that each member of the Australia Group remains committed to maintaining current export controls.

With this condition added to the resolution of ratification, I believe concerns about Article XI can be laid aside.

In fact, the negotiations between the Administration and Sen. Biden on the one hand, and Sen. Helms and Sen. LOTT’s task force on the other, have been remarkably successful in addressing the concerns that have been raised about the treaty.

If the Administration is willing to meet the concerns of the critics of Articles X and XI, as it has, and those critics still insist on the removal of those articles as their price for ratifying the treaty, it is clear that the intent is to kill the treaty altogether.

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Furthermore, with the CWC, the countries undertaking exchanges are legally bound by the fundamental obligations in Article I—the overriding Article I of the treaty, to assist, encourage or induce in any way anyone to engage in any activity prohibited under the Convention. It must be remembered that Article I supersedes all subsequent articles of the Convention.
to reassure countries who signed the treaty that they would not be prevented from developing chemical weapons defenses or engaging in legitimate chemical commerce.

None of the 74 nations that have ratified the treaty will agree to renegotiate these provisions at the eleventh hour. It will simply result in our exclusion from the CWC—which is clearly the intent.

As Gen. Brent Scowcroft, National Security Adviser to President Bush, testified before the Foreign Relations Committee on April 9, 1997:

Starting over ** * is pure fantasy. If we reject the treaty, we will incur the bitterness of all our friends and allies who followed us for 10 years in putting this thing together ** *. The idea that we can lead out for 10 years in putting this thing back together again down a different path I think is just not in the cards. We have got to deal with the situation we face now, not an ideal one out in the future.

The concerns raised about Articles X and XI—which I shared—have been more than adequately addressed by the agreed conditions.

Failing to strike this condition would be the President to killing the treaty. I urge my colleagues to vote for this motion to strike. Those who do not are essentially voting against ratification of the entire CWC. The CWC is not a panacea, and none of its provisions believes it. It will not by itself banish chemical weapons from the earth, but it would result in the destruction of much of the world's chemical weapons stocks, and provide us with a valuable set of tools that would significantly strengthen our ability to monitor and defend against the threat of chemical weapons.

So, reiterating, Mr. President, during the April 9 hearing in the Senate Foreign Relations Committee, the concern was raised by several witnesses that Article X would require the United States to share advanced chemical defense technologies with rogue nations like Iran, who may sign and ratify the treaty. I strongly disagree. The treaty requires that, there would be significant grounds for concern. But I believe the concern is unwarranted.

In an April 22 letter to me, National Security Adviser Sandy Berger makes it very clear that Article X of the CWC would impose no obligation on the United States to assist Iran with its chemical weapons defense capabilities.

Mr. Berger makes clear that paragraph X, which spells out the obligations of States Parties to assist other threatened by chemical weapons would require the United States to provide nothing more than medical antidotes and treatments to any state that requests it. We have the option to provide more advanced assistance to those states we trust, but we no obligation.

Another concern about Article X is that it would allow for parties to ** * "facilitate * * * the fullest possible exchange" of information and technology on protection against chemical weapons.

Now, I understand the concern there. But the administration has made it clear that the use of the words "facilitate" and "possible" in this paragraph mean that the United States will determine whether any specific exchange is appropriate, and we will not pursue those we determine would make those decisions we will do nothing to undermine our national export controls.

With these assertions in hand, I am satisfied that the United States will in no way be obligated to provide chemical weapons defense technology to any nation we deem untrustworthy. And the President's point A in his letter to the majority leader points this out as one of the three conditions under which the United States would withstand from the treaty if it turns out any other way.

Some have also raised the concern that Article X might induce other, less conscientious, nations to supply rogue states with defense technologies. But there is nothing that prevents these sales from taking place today, with no CWC in effect.

With the CWC, the countries who make exchanges allowed under Article X are legally bound, as Senator McCain pointed out, to the treaty's overriding and superseding principle, stated in Article I, that they can do nothing to "assist, encourage, or induce, in any way, anyone to engage in any activity prohibited by this Convention." Any country's failure to uphold this obligation would enable the full force of 160 nations to coalesce in support of sanctions, and possibly military action. In addition, the CWC would provide us with far more ability to scrutinize any exchanges of chemical defense equipment than we have today. So the result is a net increase, not a decrease, in our knowledge of defense exchanges and an ability to address any compliance concerns that may arise from these exchanges. For me, it was very helpful to be present in the closed session of this Senate. I very much appreciate the information shared. But I think the bottom line is really this point.

Let me turn to article XI, which deals with cooperation in chemical technology.

Another concern that has been raised involves the article XI provisions on cooperation in chemical activity not prohibited by the treaty. Some fear that these provisions would require the United States to provide other nations with access to our dual-use technology and manufacturing secrets. Here again, I truly believe the concern is unwarranted. Article XI aims to ensure that parties to the treaty can conduct legitimate chemical commerce. It is reasonable.

In his April 22 letter to me, Mr. Berger explains that this article does not require the United States nor any U.S. company to provide confidential business information to any foreign party. As to the concern that article XI will undercut export controls, indeed, the reverse is true. Mr. Berger makes clear that all U.S. export controls now in effect are fully consistent with the CWC. In addition, our allies in the Australia Group—all 29 of them—have pledged to maintain all existing multilateral export controls, which they agree are fully consistent with the CWC. Here again the problem identified by critics, I think, would be worse without the treaty. The CWC allows us to better monitor chemical commerce that occurs today without our knowledge. It will also provide the basis for further multilateral efforts to control exports, above and beyond our existing export controls and those of the Australia Group. And, once again, Article I supersedes this article with the overriding obligation never "to assist, encourage or induce in any way anyone to engage in any activity prohibited" under the convention.

To address the concerns raised about article XI, the administration has agreed to a binding condition No. 7 that the President must, now and on an annual basis that the Australia Group of nations is continuing to control chemical exports effectively and remains a viable mechanism for doing so. The President must also certify that the United States will weaken its own export controls. The President, in his letter, in his letter to the majority leader, clearly points out that, if that happens, we would withdraw from the treaty.

The negotiations between the administration and Senator BIDEN on the one hand, and Senator HELMS and Senator LOFT's task force on the other, I think have been remarkably successful in addressing all concerns raised with respect to the treaty. So we see here that the administration has been willing to meet the concerns of critics of articles X and XI, and it has. It seems to me completely consistent with the treaty to strip文章 from Article X at this late stage. These two articles were included to reassure countries who sign the treaty that they would not be prevented from developing chemical weapons defenses or engaging in legitimate chemical commerce.

None of the 360 nations who have signed, nor the 74 nations who have ratified this treaty will agree to renegotiate these provisions at the eleventh hour. It will simply result in our exclusion from the CWC. And that would truly be too high a price to pay. I urge all my colleagues to support this motion to strike condition 32 from the resolution of ratification. I thank the Chair for yielding the floor.

Mr. HELMS. Mr. President, I yield as much time as I may have to Senator KYL.

Mr. KYL. Mr. President, first of all, let me say that I do not like to disagree with my friend and colleague...
from California, Senator Feinstein. And I find that I rarely disagree with my colleague from Arizona, Senator McCain. This is a treaty which has caused division among reasonable people. I respect their views immensely. We find that even former members of the same administration, the Bush and Reagan administrations, now find themselves on opposite sides of this issue. So it is a matter upon which reasonable people can differ. As I said, I respect the views of those who have disagree with me, and they have certainly shown a respect for my views, which I appreciate.

These two articles are among the most important in the treaty, and I think a little bit of background is important for us to understand the reason why we believe it is important that they not be included in the treaty when we enter into force.

We have said initially that this treaty is not global. It doesn’t cover countries that it should. It is not verifiable. It is fairly well acknowledged there are no sanctions. But supporters have said it is better than nothing. There are some advantages to it. Our response is that in some respects it is not better than nothing.

In particular, these two sections, Articles X and XI, make it worse than nothing, and we ought to get rid of them. It is true that to get rid of them, the states parties to the convention have to agree. That will take some time. But we believe it is better, before the United States enters, when we have the leverage to cause that renegotiation to occur, to have it occur at that time. Therefore, the resolution of ratification is passed, but prior to the President actually depositing those articles, the President certify to us that articles X and XI have been removed, or fixed.

Why is this so important? Secretary of Defense Cheney was quoted by the distinguished members of the previous committee, and I think he succinctly said it. Therefore, I will summarize these thoughts by quoting Secretary Cheney in his letter of April of this year.

He said:

Indeed, some aspects of the present Convention—notably, its obligation to share with potential adversaries like Iran chemical manufacturing technology that can be used for military purposes and chemical defensive equipment—threaten to make this accord worse than having no treaty at all. In my judgment, these articles X and XI amount to a formula for greatly accelerating the proliferation of chemical warfare capabilities around the globe.

Mr. President, I ask unanimous consent that Secretary Cheney’s letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mr. President, I ask unanimous consent that Secretary Cheney’s letter be printed in the RECORD.

Hon. JESSE HELMS,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter inviting me to join several other former Secretaries of Defense in testifying in early April when the Foreign Relations Committee holds hearings on the Chemical Weapons Convention. Regrettably, other commitments will prevent my participation. I hope that this correspondence will be sufficient to convey my views on this Convention.

During the years I served as Secretary of Defense, I was deeply concerned about the inherent unverifiability, lack of global coverage, and unenforceability of a convention that permits production and stockpiling of chemical weapons. My misgivings on these scores have only intensified during the four years since I left the Pentagon.

The technology to manufacture chemical weapons is simply too ubiquitous, covert chemical warfare programs too easily concealed, and the international community’s record of responding effectively to violations of arms control treaties too unsatisfactory to permit confidence that such a regime would actually reduce the chemical threat.

Indeed, some aspects of the present Convention—notably, its obligation to share with potential adversaries like Iran chemical manufacturing technology that can be used for military purposes and chemical defensive equipment—threaten to make this accord worse than having no treaty at all. In my judgment, these articles X and XI amount to a formula for greatly accelerating the proliferation of chemical warfare capabilities around the globe.

Those nations most likely to comply with the Chemical Weapons Convention are not likely to ever constitute a military threat to the United States. The governments we should be concerned about are likely to cheat on the CWC, even if they do participate.

In effect, the Senate is being asked to ratify the CWC even though it is likely to be ineffective, unverifiable and unenforceable. Having ratified the Convention, we will then be told we have ‘dealt with the problem of chemical weapons’ when in fact we have not. But, ratification of the CWC will lead to a sense of complacency, totally unjustified given the flaws in the convention.

I would urge the Senate to reject the Chemical Weapons Convention.

Sincerely,

DICK CHENEY.

Mr. KYL. Mr. President, what is it about articles X and XI that cause Secretary Cheney and so many others to conclude that they should be removed? I will quote to you the language of both. They are on the chart behind me. Article X provides that ‘‘* * * each state party undertake to facilitate, and shall have the right to participate in, the fullest possible exchange of equipment, material, and scientific and technological information concerning means of protection against chemical weapons.’’

In other words, in plain English, those parties which have defensive capability will undertake to facilitate the fullest possible exchange of that technology and equipment, and so on, to the countries that don’t have them. They shall have the right to participate in the fullest possible exchange of that equipment.

Article XI is the article that says that the states parties shall: ‘‘(b) undertake to facilitate, and have the right to participate in, the fullest possible exchange of chemical equipment, and scientific and technical information relating to the development and achievement of chemical weapons not prohibited under the convention.’’

That is to say, peaceful purposes. And, second, that the states parties shall not maintain among themselves any military, industrial, scientific or technological knowledge in the field of research, manufacturing technology and these chemicals will provide them to you. We will sell you the chemicals for peaceful purposes—not for chemical weapons. And we will provide you with the technology that you can defend against any possible use against you.” Of course, the price for having that right is not developing chemical weapons.

In this respect, the treaty was compared to the Nuclear Non-Proliferation Treaty, and the so-called “Atoms for Peace,” which said that if the countries would forswear the development of nuclear weapons building that the developed countries of the world would provide them peaceful nuclear technology. For some countries this worked. But sadly we know that a couple of other countries used the peaceful technology to build their nuclear weapons capability.

So, Secretary Cheney, and many others, fear that these sections, these articles, would permit countries—since they have been induced to come into the treaty with these commitments—to then call upon those commitments from the countries that have this equipment.

Is this an unreasonable assumption? Today, we are basically hearing statements that suggest that that is not the way it was intended at all. That is a very recent phenomenon. As a matter of fact, right after the CWC was signed, it was very clear to all states parties that they begin to dismantle the trade restrictions they had in place on chemicals, in order to comply with the CWC. According to the information in testimony before the Senate, and I am quoting now, “Australia Group members”—these are the countries that have agreed not to sell chemicals to terrorist states—“in August 1992 committed to review their export control measures with a view of removing them for CWC states parties in full compliance with their obligations under the convention.”

Now I know that those trade restrictions were incompatible with the new commitments they had undertaken in articles X and XI of the convention, and the Australia Group itself issued a
formal statement which concluded again that states parties were reviewing this, and I am quoting, “with the aim of removing such measures for the benefit of states parties to the convention acting in full compliance with the obligations and conventions.”

The point being that when the treaty went into effect the parties knew full well that trade restrictions they had were no longer compatible with the convention, with articles X and XI, and that they had gone to the convention for a review of those trade restrictions. The specific implementation of the treaty means that the United States and the specific states parties to the treaty can look in compliance.

This is a commitment by President Clinton. It is a commitment to the United States participation and attempting to keep the Australia Group together, the fact is it does not deal with part of the problem that has concerned us from the very beginning.

I conclude with this letter to simply make this point. As I said, reasonable people can differ, and I respect the views of those who disagree with me. They have sincere belief that this treaty is better than nothing. And if they believe that way, they should vote yes on this treaty. There are those who disagree with that proposition. But I urge my colleagues, if you believe that this letter provides the basis for support for the treaty, I honestly believe that the President has made the right decision. If you are going to vote yes on this treaty, do it for the very real problem that the Chemical Weapons Convention gives them the color of law, the legal authority to be able to say: Look, we are parties to the treaty. The treaty says we can do it, stop complaining and, by the way, don’t impose any restrictions on us because of what we are doing. I do not know how long it will be before chemical companies in other countries will say, “Hey, is it true that nothing prevents that country from occurring today, Mr. President?”

The administration position has changed 180 degrees, Mr. President. The administration began to say, well, actually, we could continue our restrictions under these two articles. And we said, well, it will be wrong unless everybody else does. They said, they could even persuade the Australia Group countries to do that. In other words, to do exactly the opposite of what they had originally decided they had to do to be in compliance.

So the administration has made much of and my colleagues have spoken of the fact that the United States will now interpret the Chemical Weapons Convention as not requiring us to provide the equivalent of sanctions to the countries that they are willing to make are very, very hard to us to maintain trade restrictions even despite articles X and XI. Moreover, that we have even tried to get our fellow Australia Group countries to maintain their restrictions in place.

That is laudable. We have at least pushed the rock that far up the mountain. We have got them to agree these two sections should not operate the way they plainly say they will. I think it is a little unseasonly to be signaling before we have entered the convention that we are going to violate it up front and convince many of our friends to violate it, because, frankly, it is the right thing to do because articles X and XI ought to be violated by us. They have no place in this treaty.

The problem is the administration has also glossed over the fact that while we may interpret the treaty this way, there are others who do not. For example, China does not. Iran does not. If another country breaks an embargo it begins to fall apart. That is why I submit that just focusing on United States action under the treaty is not going to solve the problem.

There is also the idea—and this is really not a proper legal argument, but some have said that article I supercedes the specific articles of the convention. Now, for those who are lawyers, they recognize this is not true. The specific always governs over the general. Article I is a general prohibition. The very specific articles such as articles X and XI will control. They are specific to the specific implementation of the treaty.

But to conclude now, Mr. President, the President of the United States has said given the fact that there are concerns, continuing concerns about articles X and XI, it is better to write a letter which may well put your mind at ease, and that letter has been referred to here by some of my colleagues. I do not doubt the sincerity of the President in sending the letter and certainly the sincerity of my colleagues in believing that letter provides some solace, but I would like to make five points with respect to that letter.

If the things under articles X and XI happen that we think will, it does not solve anything for the United States to pull out of the treaty as the President says he might do. The time to exercise leverage is now before we are a party to the treaty. And what we are saying is that just focusing on United States getting into the treaty, we should make sure that articles X and XI are removed so that these bad things do not happen. Once they happen, there is no point of the United States pulling out of the treaty. That does not solve anything. So what the President says he is willing to do, frankly, is not an inducement.

Moreover, there is the argument that it is better to be inside the treaty than it is to be outside. I believe me, once we are inside it is going to be much harder to leave than it is to get in in the first place.

Third, certifications of the kind that the President indicated he would be willing to make are very, very hard to do. There are a whole series of certifications that have to do with the United States pulling out of the treaty. We know that Russia is not complying with the Biological Weapons Convention or with the Wyo- mings Memorandum of Understanding or with the Bilateral Destruction Agreement, but the President’s commitment has ever done is to conduct high-level discussions with the Russians. It is too hard to certify that they are complying. In this instance, we are at risk of doing the right thing to do because articles X and XI will control. They are specific to the specific implementation of the treaty.

So what the President says he is willing to do, it does not deal with part of the problem that has concerned us from the very beginning.
If we are signing a treaty, don’t we mean to comply with all of it. And then again we are not just talking about the United States, because I hope that we don’t just give our technology away to some countries, some countries that sign this convention and we don’t control. We know that. We have had some experience. We have seen it not only with the Geneva Protocol on chemical weapons, but we also have seen it with the biological weapons convention which a lot of countries have signed. They have not complied with and we know that. Our intelligence community has done a pretty good job, and in many cases we know a lot of countries are not complying.

But I think it is legitimate to ask, are we better off with it or without. And I have heard good debate on both sides. But this language says to me we have to share this technology. Not only do we have to but also other countries, including countries like China, would be sharing this technology with Iran. Under the treaty, they would be obliged to, or certainly that is what they will be saying. Does that increase the likelihood and the dangers of chemical weapons? I am afraid it does. And then looking at article XI, and again just looking at the treaty and looking at the language of the treaty—every once in a while I think it is important we do it—under article XI, section 2(c) it states:

Not maintain among themselves any restrictions, including those in any international agreements, incompatible with the obligations undertaken under this convention, which would restrict or impede trade and the development and promotion of scientific and technological knowledge in the field of chemistry for industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes.

In other words, we want a lot more trade in other chemicals that aren’t banned by this treaty.

There is your editorial in the Wall Street Journal that I ask unanimous consent to have printed in the RECORD. There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Apr. 24, 1997]

CHEMICAL REACTIONS

Before today’s vote on the Chemical Weapons Convention, we hope that some Senator will twist his tongue around the 20 chemicals listed here and read their names into the record. This list makes two important points about what’s wrong with the treaty. First is that many ordinary chemicals can be put to deaarming use. The chemicals on this list can be used in such mundane products as laundry soaps, ink and fumigation agents—or they can be used in lethal weapons. Bear this in mind when you hear the President assert that the CWC will “banish poison gas from the Earth.”

The second point is that the CWC not only will not prevent the spread of potentially deadly chemicals, it will require it. American companies currently are restricted from exporting these dual-use chemicals under the terms of a recent agreement on chemical weapons by Australia, which is made up of 29 Western countries committed to ensuring that their exports don’t contribute to the spread of chemical weapons.

But, Articles X and XI of the CWC require member countries to transfer chemicals and equipment to any other member country that asks. This gives a long way toward explaining why the Chemical Manufacturers Association is so loud in its support of the treaty. Senators who are still considering how to vote might consider whether selling such chemicals to China or Iran or Cuba will help make the world safer from chemical weapons—or make the world a more dangerous place.

MUSTARD GAS FOR SALE

Trade in these 20 precursors for chemical weapons agents, now prohibited under the Chemical Weapons Convention:

- 3-Hydroxy-1-methylpiperidine
- Potassium fluoride
- 2-Chloroethanol
- Diisopropylamine (DIPA)
- Sodium cyanide
- Potassium cyanide
- Ammonium bisulfite
- Sodium fluoride
- Methyl benzilate
- Potassium fluoride
- Ammonium bifluoride
- Methyl benzilate
- Sodium fluoride
- Sodium fluoride
- Sodium cyanide
- Phosphorus pentasulfide
- Diisopropylamine (DIPA)
- Diethylaminoethanol (DEAE)
- Sodium sulfide
- Triethanolamine hydrochloride

Source: Senate Foreign Relations Committee.

NICKLES. This article lists about 20 chemicals that are not prohibited by this treaty, that basically this section of article XI says you will be able to sell those chemicals. As a matter of fact, no restriction. This language says that countries cannot maintain amongst themselves any restrictions including those in any international agreements. It does not say some. It says any international agreements. That sounds pretty open. A lot of those chemicals can be used to develop chemical weapons. They can also have a dual purpose. It can be kind of confusing. I understand the President in his letter today said, well, he would try to end the confusion. And so I looked at his letter, and in his letter on page 2 he says—dealing with article X, he said:

Using article X to justify providing defensive chemical weapon equipment, material or information to another State Party that could result in U.S. chemical protective equipment being compromised so that U.S. war fighting capabilities in a chemical weapons environment are significantly degraded.

If that is the case, he wants out. What is “significantly degraded”? How much do they have to degrade? I do not know that you would ever reach—since he has said “significantly degraded,” “I do not know, because the word “significantly” is there that it would ever be treated. And then in (b) he talks about where it would be impossible for him not to take a certification on the Australia Group. But in the final language he says we would get out if the implementing of this convention carries out transfers or
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exchanges under either article X or XI which jeopardize U.S. national security by promoting chemical weapons proliferation. When is that going to be triggered?

His final conclusion is kind of interesting, and the AP story that said, well, because of the President’s letter, he said if these things happen, we are out of there, we are going to walk away from the treaty. I do not read that in his language. It says I would be prepared to withdraw. It did not say he would not. If it really jeopardizes our national security, he might be prepared, but it did not say he would withdraw, after consulting with Congress.

In other words, I do not find a lot in this letter that gives me any real comfort or assurance that article X or XI has really been addressed. And I appreciate the fact that a lot of our colleagues have addressed this issue, but to me treaties are important. And we have had a lot of significant division over various sections of the treaty, maybe none more than article X and XI, but it happens to still be in the treaty. And the President’s letter notwithstanding, at the conclusion of his letter he says, if these things happen or any of these things happen, I would be prepared to withdraw.

Frankly, Senator KYL is right. That is not going to happen in 2 or 3 years. It is not going to happen under President Clinton. I do not know that this letter would be binding on succeeding or successors of the President.

So, Mr. President, this language is vitally important. I would tell my colleague from North Carolina my vote on final passage depends on this amendment. If we are able to make this change by the Senator from North Carolina, I will vote maybe for final passage. I think this is a killer amendment, having it in the treaty. I think it is that important. I do not know that this letter would be binding on succeeding or successors of the President.

So, Mr. President, this language is vitally important. I would tell my colleague from North Carolina my vote on final passage depends on this amendment. If we are able to make this change by the Senator from North Carolina, I will vote maybe for final passage. I think this is a killer amendment, having it in the treaty. I think it is that important. I do not know that this letter would be binding on succeeding or successors of the President.

The PRESIDING OFFICER. Eleven minutes.

Mr. BIDEN. Mr. President, the condition we are discussing, all Senators by this time, I am certain, understand, requires the President to certify that the parties to the convention have agreed to strike article X of the convention and amend article XI of the convention. That means, in simple language, that the United States would simply say a treaty negotiated by 160 countries, now ratified by, apparently, 74—unilaterally, we simply knock out article X and severely amend article XI.

As all Senators who have addressed this will admit, this means effectively the end of the treaty, at least in terms of our participation, because, clearly, that the condition we are discussing, all Senators by this time, I am certain, understand, requires the President to certify that the parties to the convention have agreed to strike article X of the convention and amend article XI of the convention. That means, in simple language, that the United States would simply say a treaty negotiated by 160 countries, now ratified by, apparently, 74—unilaterally, we simply knock out article X and severely amend article XI.

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ended up in the top of the class, not the bottom. I don’t think I would have the record the Senator from Indiana had, but it would be better.

But all kidding aside, there is something, to quote Elliot Richardson, our former Attorney General, and Abe Chayes, Harvard Law School professor, and a number of other professors, which I will submit for the RECORD, there is, as the letter to me says, regarding article X and article XI, it says:

“As it is axiomatic that all treaty provisions must be interpreted in view of the purposes and objectives of the treaty and that a subsidiary obligation should never be read out of context to authorize behavior that would contravene a primary obligation, nothing in article X or XI may undermine article I . . .”

But the first part of that sentence—maybe I spent too much time in law schools. There is no legal scholar in America who will tell you that you can read a subsidiary provision in a treaty, a document, a contract or anything else, that contravenes the stated purpose of the treaty—the stated purpose of this treaty. You cannot do that.

Think about it. Forget being a lawyer, just think about it. How could you write a contract, make a deal that said, “This is our purpose,” and five paragraphs later say, “but if you don’t want to meet the purpose, you don’t have to.” It is bizarre. This is an absolute bizarre interpretation.

Let me also point out—I wish my friend had not taken down their chart. The Senator’s chart, those in opposition to my amendment, a chart on article XI, is somewhat incomplete. The paragraphs that sat up there for a half-hour or so, paragraph 2 in the chart, read, “The state party shall”—and then it goes on, and then the subparagraphees (b) and (c) were shown. But they left off one of the parts of that. The words that were missing are very key. They read as follows:

Subject to the provisions of the convention and without prejudice to the principles and applicable rules of international law, the state party shall:

That is the part they left out of article X and XI. What does article X and XI refer to? They are referring to article I. I do not want to be overly technical here. This is not rocket science. What does Article T refer to? Article T says:

Each state party to this convention undertakes never under any circumstances:

(a) to develop or produce or otherwise acquire, stockpile or retain chemical weapons or transfer, directly or indirectly, chemical weapons to anyone;
(b) to use chemical weapons;
(c) to engage in any military preparation to use chemical weapons;
(d) to assist, encourage or induce in any way anyone to engage in any activity prohibited to a state party under this convention.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BIDEN. I yield myself 2 additional minutes under the bill.

Mr. President, what are we talking about here? Do you know what this debate on article X and article XI reminds me of, speaking of law school? The only thing I ever did do well in law school was moot court. I won that. Does that surprise you all? But I did. It reminds me what we used to do—maybe when my friend from Indiana was at Oxford. You would walk in and you would be presented a question. The question before the court or the question before the House is—and you had to get assigned the part you came up with the best arguments.

This reminds me of that, as we all got together earlier today and said, OK, one side has to argue that article X and article XI do all these terrible things. I am glad I did not get that side to argue. The reason is, it is much harder to make the case. My friend from Arizona, who is an able trial lawyer, is doing a very good job. But, look, you cannot avoid the central purpose of the treaty and consistent with our national export control policies and objectives of the treaty and that is: Never, under any circumstances, can any party assist, encourage, induce in any way anyone to engage in any prohibited activity.

I yield myself 2 more minutes on the bill.

So we are in a position here where I really understand the worry. But, even if there was any merit to the reading that is given by my friends, we have, in the conditions that we did support, we have two conditions which cover this—double cover it. We promise we are not going to transfer anything that is not medical in nature.

Mr. President, a party cannot do something in the treaty by transferring medical material which would have the effect these Senators are worried about, because if it had the effect they were worrying about, then it would be assisting, encouraging, inducing in some way engaging in activity prohibited by the treaty. Chemical weapons are prohibited by the treaty.

To reiterate, Mr. President, this is a killer, pure and simple. This will prevent the United States from joining the Chemical Weapons Convention.

The condition requires the President to certify that he has achieved the impossible: that he has been able to substantially rewrite the treaty.

There is no chance—none—that he can achieve this by April 29, and it is highly unlikely that he can ever do so—because commitments may be blocked by any state party to the convention. If a party wants to keep us out—and thus render the treaty ineffective—it can easily do so.

Aside from the practical difficulties of rewriting a treaty that took nearly a decade to negotiate, there is no need to do so.

Let me start with article 10. The Senator from North Carolina wants to get rid of it completely.

Article 10 contains two paragraphs at issue. Paragraph three provides that:

| Each State Party undertakes to facilitate, and shall have the right to participate |
| in, the fullest possible exchange of equipment, material and scientific and technological information concerning means of protection against chemical weapons. |

Note that this paragraph contains ambiguous terms like “facilitate” and “possible.” There’s a reason for that. The negotiators did not want us to make a concrete commitment.

And the Administration has made clear that it interprets this paragraph to mean that it will have the flexibility to decide what exchanges, if any, will occur under this paragraph.

On April 15, Sandy Berger wrote to me to say that:

. . . any exchange which does occur is limited to other states which it deems appropriate and permitted under the Convention and consistent with our national export controls on these heavily regulated items.

I ask unanimous consent that this letter be printed in the RECORD, as follows:


Hon. Joseph R. Biden, Jr.

Washington, D.C.

Dear Joe: During the Senate Foreign Relations Committee’s hearings on the BWC, concerns were again raised about the impact of the Chemical Weapons Convention (CWC) on the ability of rogue states to acquire advanced chemical defense or chemical manufacturing technology. I would like to take the opportunity to elaborate further on these issues and set the record straight.

First, I would like to take issue with the charge that the Nuclear Non-Proliferation Treaty (NPT) and the Biological Weapons Convention (BWC), which have language similar to the CWC on promoting trade for peaceful purposes, have hastened the spread of these dangerous weapons and technologies. In fact, export controls in these areas have been made tougher and these controls, as well as the treaties themselves, have gained the support of more and more countries over the years.

In the early 1990s, President Bush projected that there would be 15-20 nuclear weapon states by the 1970s. Due largely to the NPT, that number has fallen considerably. Controls on biological weapons were strengthened, including in 1992, when the Australia Group decided to add biological pathogens and related equipment to their list of controlled items.

The CWC, like the NPT and the BWC, will result in a strengthened export control regime on dangerous chemicals. The CWC allows for maintenance and strengthening of the controls already in place, while also formally expanding controls over a broad range of chemicals and precursors.

The CWC also prohibits novel agents which are not currently covered. The informal Australia Group consists of 30 countries, while the CWC has been ratified by 72 countries and the list is growing. Furthermore, the CWC provides for trade restrictions against states who are not party to the treaty.

Regarding the specific CWC Articles in question, one area of concern has been whether Article X of the CWC might force us to share advanced chemical defense technologies and equipment with countries like Iran and to assist in the development of CW defensive capabilities. Let me assure you that Article X does not require the U.S. or other Party to assist other Party in the development of advanced chemical weapons defense technologies and equipment with countries such
as Iran or to assist them in the development of such capabilities. Although Paragraph 7 of Article X obligates States Parties to provide assistance through the treaty organization in response to a request from a State Party that has either been threatened by the use of chemical weapons or has a chemical weapons capability, assistance is broadly defined in the article as including medical antidotes and treatments. Article X provides complete flexibility to States Parties to determine what type of assistance they provide and how they provide it. A State Party’s obligation under paragraph 7 of Article X may be met in any way—by contributing monies to a voluntary fund (managed by the treaty organization); by concluding an agreement with the organization concerning the procuring of specified species of assistance; or by declaring (within 180 days after the CWC’s entry-into-force) the kind of assistance it might provide in response to an appeal by the organization.

To meet its obligations under Article X, therefore, the U.S. can choose from a variety of options and forms of assistance. In no case would we be required to provide defense assistance bilaterally. Simply, we cannot share advanced chemical defense technology and equipment, or even to provide older model gas masks. During negotiations with Majority Leader Lott and the Task Force he established on the CWC, the Administration has agreed to a binding condition, regarding Article XI, to the effect that any exchange of information that will ensure that no assistance other than medical antidotes and treatments is provided by the United States to any country of concern.

A particular concern has also been raised about Paragraph 3 of Article X. This paragraph states that “Each Party undertakes to facilitate, and shall have the right to participate in, the fullest possible exchange of equipment, material and scientific and technological information concerning means of protection against chemical weapons.” The inclusion of the words “facilitate” and “possible” underscores that no specific exchange is required and that any exchange which does occur is limited to that which we determine would be appropriate and permitted under the Convention and consistent with our national export controls on these heavily regulated items. The exchange under Paragraph 3 of Article X does not override any other rights and obligations under international law, such as the right to have export controls.

The Article X also include whether other less scrupulous countries might seek to use this article as an excuse to profiteer by giving away defense secrets. This concern misses the main point, which is that any such unscrupulous exchanges can take place now without the CWC. With the CWC, countries undertaking any exchange in Article X are legally bound by the fundamental obligation of the treaty in Article I, which obligates Parties never to “... assist, encourage, or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention.” The Chemical Weapons Convention will mean not only that all relevant trade is subject to closer scrutiny, especially with countries whose compliance may be in doubt, but it will also provide the legal basis as well as the verification measures to redress those compliance concerns.

In this regard, concern has been raised specifically that Paragraph 6 of Article X could provide countries with an escape clause for the provision of specified defense items. Paragraph 6 states that “Nothing in this Convention shall be interpreted as impeding the right of Parties to retain for purposes of self-defense the right to provide assistance bilaterally... concerning the emergency procurement of assistance.” This paragraph does not require or obligate a Party to provide emergency bilateral assistance, but simply states that a Party may choose to provide such emergency assistance. Paragraph 3 requires that any exchange of CW defense assistance takes place within the framework of the fundamental obligations of the treaty not to undertake such an exchange.

A specific concern also has been raised that Article XI of the Convention could be read to require the release of advanced and classified information concerning various means of protection against chemical weapons as well as such information as may be provided by States Parties. As stated in the Article-by-Article Analysis submitted to the Senate on November 23, 1993, “freely available” means “from open public sources.” Further, the CWC requires the International Technical Secretariat which will administer the Convention to establish and maintain “for the use of any requesting State Party, a data bank containing information concerning various means of protection against chemical weapons as well as such information as may be provided by States Parties.” As stated in the Article-by-Article Analysis submitted to the Senate on November 23, 1993, this provision does not require the release of classified or otherwise sensitive information about U.S. capabilities.

A second area of concern has been whether Article XI of the CWC, which relates to the right of States Parties to undertake certain export activities for purposes not prohibited by the CWC, might force our industry to share dual-use technologies and manufacturing secrets with other nations. This is not what the treaty says. Let me assure you that Article XI does not require private businesses to release such proprietary or otherwise confidential information to the U.S. Government to force private businesses to undertake such actions.

Article XI is explicitly subject to the fundamental ban in Article I on assisting anyone in acquiring a chemical weapons capability. Here again, far from undercutting export controls, the CWC will be a basis for stronger controls, enforced by more countries. I want to make clear that the export controls that we and other Australia Group members have undertaken, as well as our own national export controls, are consistent with the CW Convention and will further its implementation. This is not just a U.S. Government position. In recent weeks, we have instructed our embassies to confirm with our Australia Group partners that they agree that the Group’s export control and nonproliferation measures are fully compatible with the CWC. Our partners have confirmed this and have also confirmed that they are committed to maintaining such export control and nonproliferation measures in the future.

In order to address the concerns raised about Article XI, the Administration has agreed to a binding condition in our negotiations with Australia regarding the Group’s Task Force that would have the President certify prior to the deposit of our instrument of ratification that nothing in the Convention obligates us to accept any weakening of our export controls, that we maintain the right to impose export controls unilaterally or collectively on chemicals and chemical production facilities. Such a statement to the effect that the Australia Group agrees that its export controls and nonproliferation measures are consistent with the CWC and is committed to maintaining such measures in the future. Furthermore, as prescribed in the condition, the President must certify on an annual basis that the Australia Group continues to maintain effective export controls over exports and that it remains a viable mechanism for limiting the spread of chemical and biological weapons-related materials. If this certification cannot be made, the President must consult with the Senate for the purpose of obtaining a resolution of continued adherence to this convention.

I hope this information facilitates the Senate’s consideration of the CWC. I look forward to continuing to work with you on the Senate’s support to ensure a successful vote on this vital treaty in the days ahead.

Sincerely,

Samuel R. Berger,
Assistant to the President for National Security Affairs.

Mr. BIDEN. Moreover, as with any treaty, this paragraph must be read in light of the object and purpose of the convention. The purpose of the treaty, quite obviously, is to ban chemical weapons.

And any nation which provides technology to a country of concern would find itself in violation of the overriding obligation of Article One of the treaty, which requires states “never under any circumstance * * * to assist, encourage, or induce, in any way, anyone to engage in any activity prohibited to a state party under this Convention.”

This is an overriding obligation. It governs everything you do under the treaty.

Ronald Lehman, the head of the Arms Control and Disarmament Agency during the Reagan Administration, stated during a recent Foreign Relations Committee hearing that we made it very clear throughout the negotiations that all of this was subject to [Article I, which is the fundamental obligation under the Convention] not to assist. We reiterated that again and again and again. But the most important, I think, telling factoid in support of the U.S. interpretation is the fact that after the Convention was done so many of the usual list of suspects were so unhappy that they did not get what they wanted in these provisions.

On this point, I would also like to refer to a letter submitted to me by a group of eminent legal scholars, including Abe Chayes of Harvard Law School, former State Department legal adviser, and Elliot Richardson, former Secretary of Defense and former Attorney General.

They wrote that the language in paragraph three which discusses that each State Party has the right to “participate in exchanges of equipment” is axiomatic—that is, it “merely reaffirms current trade policies that allow non-CWC parties to exchange goods and services.” Each State Party therefore has the right to participate in this trade at the level of its own choosing, including not to trade at all. There is no affirmative duty to trade * * *

I seek unanimous consent to have the letter printed in the Record at this point.
Mr. BIDEN. More to the point, even if we were obligated—which we're not—this provision would be otherwise permissible. Moreover, these provisions are explicitly balanced against general provisions, including: (1) "without prejudice to the principles and rules of international law," (2) "for purposes not prohibited under this Convention", (3) "other peaceful purposes", and (4) "render them consistent with the objects and purpose of the Convention".

Article XI, when read in its entirety and in its legitimate meaning, permits the United States to continue national security controls over exports of chemical weapons material, equipment and dual use items. We believe that Agreed Condition 7 to the Resolution of Ratification of Advice and Consent the continuing vitality of the Australia Group and national export controls is consistent with Article X and XI, and the CWC as a whole. Accordingly, we believe that Agreed Condition 7 should alleviate concerns raised by critics of the CWC concerning United States obligations under Articles X or XI. Furthermore, we would note that the United States has never been prevented (or seriously challenged) from legally pursuing unilateral and multilateral export controls on nuclear technology that it deems necessary on national security grounds, despite objections from certain states citing Article Ten is in paragraph three methods for providing assistance. We believe that this provision requires us to weaken our export controls under the CWC. There is nothing in the CWC that requires us to weaken our export controls. But just to ensure that there isn't any doubt, we have agreed to a binding condition, condition number fifteen, which limits the type of assistance we will provide at least when it comes to countries ineligible for economic or military assistance, which includes the rogue states—medical antidotes and treatment.

Let me now turn to Article Eleven. The proponents of this condition contend that this article requires us to weaken our export controls under the CWC. There is nothing in the CWC that requires us to weaken our export controls. But just to ensure that there isn't any doubt, we have agreed to a binding condition that addresses the problem.

Condition seven requires the President to certify that nothing in the Convention requires us to weaken our export controls, and that the Australia Group—an informal group of potential supplier states to which the United States belongs—will continue to maintain controls over chemical weapons precursors that are equal to, or exceed, those in effect today.

The Australia Group has already indicated, as a group, that it would maintain its export controls. On October 17, 1996—a little more recently than the statement read by the Senator from Arizona—the Australia Group stated that the "maintenance of effective export controls will remain an essential practical means of fulfilling obligations under the CWC."
the affirmative—as the president stated today in his letter to the majority leader.

Finally, the President committed today, in the event that either Article Ten or Article Eleven to legitimate trade at a national level endangers our security, the President will consult promptly with Congress on whether we should withdraw from the Convention. This is an extraordinary commitment. So I hope it resolves everyone's concern.

Mr. President, I reserve the remainder of the time on the amendment.

The PRESIDING OFFICER. There is 1 minute remaining on the amendment. Mr. BIDEN. Oh, there is 1 minute remaining on the amendment? Mr. President, in that case I have another 10 minutes.

No, if the majority is ready to yield back their time, I will yield back my minute.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. A bum deal, just like this treaty.

Mr. BIDEN. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I always enjoy holding court with my friend from Delaware. We have had some of these debates in the past, and this is the thing that lawyers like to argue about, but I believe that most lawyers will agree with me that what they learned in law school was that the specific provisions of the contract always prevail over a general statement at the beginning of the contract. There are a lot of rules of instruction. Later provisions generally govern over previous provisions on the theory that you later describe your intent, fully cognizant of what occurred before. The same thing is true with specific provisions of the contract, and that is why article I is called, not “CWC article I,” but rather “general article.” “Article I, General Obligations.”

Then, article II is definitions, and after that are the specifics. This is the reason why the Australia Group itself issued a statement right after this convention was entered into undertaking to review, in light of the implementation of the convention, the measures that they take to “prevent the spread of chemical substances and equipment for purposes contrary to the objectives of the convention with the aim of removing such measures for the benefit of states parties to the convention acting in full compliance with the obligations under the convention.”

Australia Group members would not have had to do this under the interpretation of the Convention by my friend from Delaware. Rather, they began to do this because they read articles X and XI the same as the many experts do that I cited earlier as limiting our ability to impose trade restrictions on states parties to the convention. That is why it says we will undertake to facilitate, and the other states parties have the right to the fullest possible trade in these chemical weapons. This is not just my view. I read to you what Secretary Cheney said before, James Schlesinger, former Secretary of Defense and head of the CIA. It is plain that article X legitimizes such transfers.

The PRESIDING OFFICER. The Senator from Delaware has 33 seconds.

Mr. BIDEN. Mr. President, I ask unanimous consent to have printed in the RECORD a letter dated October 17, 1996—speaking of superseding—which supersedes the statement referred to by my colleague about the Australia Group. It says:

In this context, the maintenance of effective export controls will remain an essential practical means of fulfilling obligations under the CWC and the BTWC. Translated into ordinary English, it means that we are committed to the commitment we made in the Australia Group with export controls. We believe it is consistent with the CWC and required by the CWC.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AUSTRALIA GROUP MEETING

Australia Group participants held informal consultations in Paris between Oct. 14-17, to discuss the continuing problem of chemical weapons proliferation. Participants at these talks were Argentina, Australia, Austria, Belgium, Canada, the Czech Republic, Denmark, the European Commission, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovak Republic, Spain, Sweden, Switzerland, United Kingdom and the United States, with the Republic of Korea taking part for the first time.

Participants maintain a strong belief that full adherence to the Chemical Weapons Convention (CWC) and to the Biological and Toxin Weapons Convention (BTWC) will be the best way to eliminate these types of particularly inhumane weapons from the world’s arsenals. In this context, the maintenance of effective export controls will remain an essential practical means of fulfilling obligations under the CWC and the BTWC.

All participants at the meeting welcomed the expected entry into force of the CWC, noting that this long-awaited step will be an important, historic moment in international efforts to degrade and eliminate these weapons. Participants agreed to issue a separate statement on this matter, which is attached.

Participants also welcomed the progress of efforts to strengthen the BTWC in the negotiations taking place in the Ad Hoc Group of BTWC States Parties in Geneva. All Australia Group participating countries are also States Parties to this Treaty, and strongly support efforts to develop internationally-agreed procedures for strengthening international confidence in the treaty regime by verifying compliance with BTWC obligations.

Experts from participating countries discussed national export licensing systems and provisions to prevent assistance and materials from contributing to the production of CBW. They confirmed that participants administered export controls in a streamlined and effective manner which allows trade and the exchange of technology for peaceful purposes to flourish. They agreed to continue working to focus their national measures essentially on preventing any contribution to chemical and biological weapons programs. Participants noted that the value of these measures was evident not only in the context of the Australia Group, but the whole international community.

Participants also agreed to continue a wide range of contacts, including a further program of briefings for countries not participating in the Paris consultations to further enhance and understand national policies in this area. Participants endorsed in this context the importance of regional seminars as valuable means of widening contacts with other countries on these issues. In particular, Romania’s plans to host a seminar on CBW export controls for Central and Eastern European countries and the Commonwealth of Independent States in Bucharest on Oct. 21-22 and Japan’s plans to host a fourth Asian Export Control Seminar in Tokyo in early 1998 were warmly welcomed by participants. Argentina also agreed to host a regional seminar on non-proliferation matters, in Buenos Aires, in the first week of December 1996. France will organize a seminar in December 1996 on the implementation of the CWC. This will take place shortly before entry into force of the Convention.

The meeting also discussed relevant aspects of terrorist interest in CBW and agreed that this serious issue requires continuing attention.

Participants agreed to hold further consultations in October 1997.

AUSTRALIA GROUP COUNTRIES WELCOME PROSPECTIVE ENTRY INTO FORCE OF THE CHEMICAL WEAPONS CONVENTION

The countries participating in the Australia Group warmly welcomed the expected entry into force of the Chemical Weapons Convention (CWC) during a meeting of the Group in Paris in October 1996. They noted that the long awaited commencement of the CWC regime, including the establishment of the Organization for the Prohibition of Chemical Weapons, will be an historic watershed in global efforts to aboish chemical weapons for all time. They also noted that the United States had taken strong actions to ensure their national activities support the goal of a world free of chemical weapons.

All of the participating countries reiterated their previous expressions of support for the CWC, and reaffirmed their intention to be among the original States Parties to the CWC. They noted that 24 of the 30 countries participating in the Australia Group have already ratified the Convention. Representatives also recalled their previous expressions of support for the CWC, and reaffirmed these commitments. Participants agreed that the operation and implementation of the CWC offers the best means available to the international community to rid the world of these weapons for all time. They called on all signatories to ratify the CWC as soon as possible, and on the small number of countries which have not signed the Treaty to join the regime and thereby contribute to international efforts to ban these weapons.

Representatives at the Australia Group meeting recalled that all of the participating countries are taking substantial steps to ensure that relevant national regulations promote the object and purpose of the CWC and are fully consistent with the Convention. They restated their commitment to entry into force for each of these countries. They noted that the practical experience each
country had obtained in operating export licensing systems intended to prevent assistance to chemical weapons programs have been especially valuable in each country’s preparations for implementation of key obligations under the CWC. They noted in this context, that these national systems are aimed solely at avoiding assistance for activities which are prohibited under the Convention, while ensuring they do not restrict or impede trade and other exchanges facilitated by the CWC.

Mr. BIDEN. We are ready to vote, Mr. President.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to amendment No. 51. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 66, nays 34, as follows:
[Roll Call Vote No. 50 Ex.]

YEAS—66

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Breaux
Bryant
Bumpers
Byrd
Chafee
Cleland
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Dodd
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Schumer
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Snowe
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restrictions and regulations on this industry as well as the exposure of confi-
dential, proprietary information.

The chemical industry has repeatedly refuted these claims; yet, it appears that CWC’s critics are so blinded by their ideological zeal to kill all arms control treaties that they cannot take no for an answer. One of the industry’s best responses was contained in a letter sent late last year to the distin-
guished Majority leader, Senator LOTT. This letter is an important one, so I will quote it in toto.

“The chemical industry has long supported the Chemical Weapons Convention. Our indus-
try participated in negotiating the agree-
ment and in U.S. and international imple-
mentation efforts. The treaty contains sub-
stantial protections for confidential business
information. We know because industry helped to draft these provisions. In short,
our industry has thoroughly examined and
tested this Convention. We have concluded that the benefits of the CWC far outweigh the costs. The real price would come from not ratifying the CWC. . . . If the Senate does not vote in favor of the CWC, we
stand to lose hundreds of millions of dollars in overseas sales at risk thousands of good-paying American jobs.”

So says the chemical industry in a letter signed by the CEOs of 53 of America’s preeminent chemical manu-
facturers. Signees include the ARCO Chemical Company, the Ashland Chemical Company, the B.F. Goodrich Company, the Dow Chemical Company, the Eastman Chemical Company, the E.I. Du Pont Company, the Exxon Chemical Company and the Monsanto Company. I should also note that these companies issued this statement before we agreed upon the 28 conditions I discussed earlier, several of which would further reduce the possibility that proprietary infor-
mation from American businesses would fall into the hands of our adver-
saries.

Well, Mr. President, what about the military? After all, it is our men and
women in uniform who must face, as they did in Desert Storm, the threat of an attack from lethal chemical wea-
pons. Are we really talking about invisible and instantaneous kill-
ners? What about our people in the Pen-
tagon who have to make the decisions that may ultimately lead to the expo-
sure of our troops to that insidious threat? General Shalikashvili, the Chairman of the Joint Chiefs of Staff, testified before the Senate Foreign Re-
lations Committee:

“The potential benefits of the Chemical Weapons Convention will have a positive impact on our defense posture and how the U.S. military fulfills its responsibility to national security.”

In another appearance before the Foreign Relations Committee, General Shalikashvili is quoted as saying:

“From a military perspective, the Chemi-
Cal Weapons Convention is clearly in our na-
tional interest. The non-proliferation aspects of the convention will retard the spread of chemical weapons and, in so doing, reduce the probability that U.S. forces may encoun-
ter chemical weapons in a regional conflict.”

Some may argue that General Shalikashvili is but one general who was appointed by President Clinton. To
those skeptics, let me say three things. First, General Shalikashvili’s record of service to this country is unparalleled.
Second, a comprehensive review of this record will not reveal a single instance where he failed to offer anything but his objective, unvarnished opin-
ion. Third, he is not alone. An April 3 letter to the President states the follow-
ing:

The Senate has heard from President
Reagan’s National Security Advisor, from President Bush, from the leading
figures in the chemical industry, from the current chairman of the JCS, three of his predecessors and 14 other three-
star and four-star generals and admirals, and from the intelligence community. Each of these groups and individuals have looked at the CWC from their unique perspectives and interests and
each has reached the same conclusion: the Senate should support this treaty and should do so promptly.

Mr. President, I would submit since the Senate received the CWC treaty for its advice and consent, one other group has spoken all too loudly to us: those who commit terrorist acts. In the 3½
years this treaty has been before the Senate, terrorist incidents have oc-
curred with a sickening and disturbing regularity: the sarin gas attack in the
Tokyo subway; the bombing of the Murrah Federal Building in Oklahoma
City; the attack on U.S. embassies in Dharan, Saudi Arabia; the suspected
bombing of TWA flight 800; the bomb-
ing in Olympic Park in Atlanta. Each incident has painfUlly dramatized the
fact that we live in an age where, un-
fortunately, no one is vaccinated against the threat of terrorism. No
community stands outside the reach of

determined terrorists. As President
Clinton noted in a recent address, “Terrorism has become an equal oppor-
tunity destroyer, with no respect for border,
life, or time.”

This treaty is an opportunity to send a small message to those who threaten
our families, our communities and our way of life with their unprovoked acts of violence.

The United States Senate has heard what terrorists have to say. Today, with
our votes on this treaty, we deter-
mine how the United States Senate will respond to these acts. I hope we
accept the message that we are going to do all we can to ensure that
deadly chemicals will never be employed by the terrorists, on the issue of chemical
weapons, enough is enough.

Now the argument will be made that
this treaty will not halt terrorism, will
not shut down the private laboratories of insane extremists and will not halt
the efforts of various rogue nations.

To a certain degree, that is probably true. But what this treaty will do is
begin the orchestration of a concert of

dolations—an orchestration of civilized
tones that speaks out forcefully against an unambiguous evil.

Tonight America has the opportunity to
make the moral stand. We are de-
stroying our own chemical stockpiles. We
began that cleansing process under
President Reagan and it continues
today. Why should we oppose a treaty that demands the world to live up to a

standard that we have already willingly accepted ourselves? Why de-
prive ourselves of the right to call upon our neighbors to live up to the example
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that we in the United States are willing to act?

In summary, Mr. President, this is a necessary treaty. It has been endorsed by a bipartisan group of Senators who are experts on this issue, by advisors to President Clinton, by the U.S. military, by our chemical industry and by our intelligence community.

To all of this I would add two final points. First, over 80 percent of the American people have indicated their support for ridding the world of toxic agents by ratifying the CWC. Second, over 70 countries have already ratified this treaty and thereby forsaken the use of chemical weapons. Mr. President, this treaty is going to happen, and we will have done our part. Mr. President, I ask that the Senate ratify this treaty.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. How much time remains?

The PRESIDING OFFICER. The Senator from North Carolina has 21 minutes, the Senator from Delaware has 7 minutes, the Senator from Vermont has 8½ minutes, and the majority leader has 13 minutes.

Mr. BIDEN. I yield myself such time as I may consume under the 7 minutes. I do not plan on using it all.

Mr. President, it has been a long road to this spot, this point. We have had not one but two extensive debates on this floor, in committees, in the press, among foreign policy experts, think-tank types, for the past 3 years. We reached the point where we are constitutionally required to fulfill a duty of either honoring our consent to ratification or withholding it. As both leaders have pointed out, it is maybe the most significant responsibility delegated to the U.S. Senate.

I realize that we sometimes stand on this floor, particularly when any one of us and all of us have invested a significant amount of time in one issue or another where we feel that we have spent most of our waking hours for the past month, two, or three—everyone has experienced that on this floor—and we tend to think that since we put so much time into the passage of a piece of legislation, or in this case, a treaty, that maybe it is the most important thing that the Senate has done or could do because I guess we say to ourselves we would not invest that much of our time, our energy, our mind, our soul, into the effort if it was not so important.

Acknowledging that we all differ on that point—Reagan and Bush, for instance—is sometimes more important than what it is, I respectfully suggest that the vote of each of us is about to cast on this treaty is likely to be the most significant vote any of us cast in this Congress.

Twice today I have been referred to as the senior Senator from Delaware. I want the record to show, I know I am the junior Senator. I am the second most senior Senator in the United States. I have been here 25 years, but that young man in the back there is the most senior junior Senator, the distinguished Senator from South Carolina, Senator HOLLINGS, because the most senior Senator of senior Senators is his colleague, senator THURMOND.

Mr. President, I am not sure that there is any vote that I have cast in the last 4 or 5 years that I think is as significant for the future of the United States as this treaty. And as I said, and I will conclude with this, not merely because of what the treaty attempts to do—and that is, for the first time in the history of modern man, ban even the possession of an entire category of weapons of mass destruction, but also why this is the most important vote. We are at a juncture in our history, Mr. President, in my opinion, where the United States has an opportunity, which rarely comes to any nation in its history. It is an opportunity, an opportunity, on two occasions—where our actions and our leadership can literally, not figuratively—and it is not hyperbole—can literally shape, at least on the margins, the future of the world.

After World War II, we stepped up to the plate. My father's generation and my grandfather's generation and grandmother's and my mother's generation stepped up to the plate. They did things, when we look back on them, that must have taken incredible courage. Can you imagine having over 10 million men still under arms and standing up as a Senator, or as a President, or as a Secretary of State, and saying, by the way, I want us now to send billions of dollars to those people who killed our sons and daughters? That was the Marshall Plan. Can you imagine the foresight it took and how difficult it must have been to cast a vote to set up an outfit called NATO, of which Germany, our sworn enemy that killed our sons and daughters, were members? Those people had courage. But they did what the Senator from Indiana, Senator LUGAR, said: They led.

This is about leadership. This is about statesmanship—in leading the world. If we refrain from exercising that opportunity—and we will if we do not vote for this treaty—we will have passed up an opportunity that, as I said, rarely comes to any nation in the history of the world. We can affect, if we are wise, the behavior, the activity and actions for a generation to come, not for what is contained in this treaty, but because of the leadership that was demonstrated in drafting this treaty, in ratifying this treaty and enforcing it.

So, Mr. President, I realize that all of us—myself included—tend to engage in hyperbole and rhetoric that doesn't mean the substance of what we are talking about. But I honestly believe this is one of the most important votes, in terms of the future of this country and its ability to lead at a moment in history that seldom comes to any nation, that the most important vote that any of us will cast. If we embark on this path of continuing to engage the world and lead the world, we maintain the reasonable prospect that we can make the world—the world—a better place in which to live.

I yield the remainder of my time, and I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. HELMS. I am profoundly disappointed in the five votes of the Senate on the important, vital amendments. After all the debate, all the gallons of newspaper ink spilled, all of the negotiations—ultimately, I had hoped for better. But so be it.

Our position in this room, rhetoric aside, who can believe that the amendments that we have just considered are "killer amendments." The nature of international relations, and of treaties is that what is negotiated can be renegotiated, and negotiated anew. If our aim is a better future, what are a hundred more meetings in Geneva, or Vienna or the Hague? These amendments would have ensured that this treaty did no harm, even if it did no good.

Now, we must vote on a treaty that, stripped of these key protections, four former Defense Secretaries have told us is contrary to the national security interests of the United States.

The truth is that I cannot abide the pretense of action on a matter as weighty as the proliferation of weapons of mass destruction. If we ratify this treaty today, the Senate, with the President, will announce to the world that we have done something about the scourge of chemical weapons. We will pat ourselves on the back and go home.

But, Mr. President, we will have done nothing. And, worse than nothing, we will have done harm. In the name of curbing the proliferation of these chemicals, we will allow rogue states to gain access to our most precious defense secrets. We will guarantee that rogue nations of the World—both those who have signed this treaty and those who haven't—will have the ability to manufacture chemical weapons and penetrate our Nation's most advanced chemical defenses.

Article X and XI—"Poisons for Peace"—will foster the proliferation of those very poisons. Anyone who doubts that need only look to how Russia has abused similar provisions in the Nuclear Non-Proliferation Treaty.

The N.P.T.'s "Atoms for Peace" provisions allow Russia to transfer to Iran, a terrorist state, a nuclear reactor. Russia forced that. I wanted that the sale be perfectly legal, and Russia is right. Iran, despite its nuclear weapons program and its chemical weapons program, is a nation...
Mr. President, let us listen to the wisdom of the four former Secretaries of Defense, who have urged us to oppose this treaty. Let us listen to the mountain of evidence—classified and unclassified—that has been presented over the last two days as to the fingers posed by this treaty. And most important, let us listen to our consciences. Let us vote to reject the Chemical Weapons Convention.

**AMENDMENT NO. 52**

Mr. HELMS. Mr. President, I send an amendment to the Senate and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for Mr. BIDEN, proposes an amendment numbered 52.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the treaty be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 18, strike “payment” and insert “amount.”

On page 3, line 17, insert “to another organization” after “Organization.”

On page 3, line 13, insert “and all official or employee thereof” after “it.”

On page 5, line 10, insert “or the affiliated organization” after “tion.”

On page 9, line 11, insert “and the affiliated organization” after “Organization.”

On page 13, line 21, insert “all official or employee thereof” after “it.”

On page 14, line 5, insert “and all official or employee thereof” after “functions.”

On page 15, lines 6 and 7, strike “to United States ratification” and insert “reflecting the object and purpose.”

On page 18, line 2, insert “support for” after “resolution.”

On page 20, line 12, strike “citizens” and insert “citizens and”.

On page 23, line 18, strike “obligation” and insert “obligations.”


On page 34, line 1, strike “Committee” and insert “Committees.”

On page 34, line 3, insert “the” and “and.”

On page 21, line 10, strike a comma immediately after “games.”

On page 34, line 10, strike “of the Convention” after “ratification.”

On page 47, line 19, insert “the ratification of” after “to.”

On page 49, line 5, move the margin of “(ii)” 2 ems to the right.

On page 49, line 11, move the margin of “(ii)” 2 ems to the right.

On page 49, line 16, move the margin of “(iii)” 2 ems to the right.

On page 52, line 9, strike “Committee” after “(D)”.

On page 53, line 21, strike “Committee.”

On page 55, line 4, insert “a schedule of” after “to.”

On page 57, line 1, strike “the” and insert “to.”

On page 59, line 15, strike the comma.

On page 61, line 11, strike “on an involuntary basis.”

On page 61, line 12, insert “where consent has been withheld,” after “States.”

On page 8, line 8, insert “,” if accepted,” after “provision.”

On page 25, line 19, insert “on Intelligence” after “Committee.”

On page 27, line 7, strike “is” and insert “are.”

On page 27, line 22, insert “on Intelligence” after “Committee.”

On page 57, line 15, strike “Rwanda” and insert “Rwanda.”

The PRESIDING OFFICER. Without objection, the amendment is agreed to. The amendment (No. 52) was agreed to.

Mr. KEMP THORNE. Mr. President, it was President Ronald Reagan who said, “Trust but verify.” Sound advice I believe we should heed today.

Reluctantly, I rise in opposition to the Chemical Weapons Convention. Do I want to see the elimination of chemical weapons and deadly poisons? Absolutely. Will the proposed treaty actually prevent the use of chemical weapons? Not in my opinion. As I’ve listened carefully to all of the arguments, I’ve concluded that the proposed treaty will do nothing; it is intended to do, and, in fact, may actually do more harm than good.

Again, trust but verify.

Like many Americans, I took notice when four recent Secretaries of Defense came out in opposition to the Chemical Weapons Convention. The opposition of Secretaries Schlesinger, Cheney, Rumsfeld and Weinberger is based, in part, on the fact that the treaty is not verifiable. In other words, we have no way of knowing if our “partners” in this agreement are living up to their end of the deal. Like the four former Secretaries of Defense, I am troubled by statements by CIA and Department of Defense officials that admit they do not have “high confidence” the treaty can be verified, key provisions “can be thwarted” and detection of small amounts of chemical weapons “will admittedly be extremely difficult.” In my mind, the admission of Clinton Administration officials that the treaty is not verifiable raises serious questions about the value of the agreement.

The Chemical Weapons Treaty also contains provisions, Articles X and XI, which mandate the sharing of all chemical weapons technologies, including chemical weapons defensive technology, with other countries. These provisions might allow countries like Iran and Iraq to acquire advanced defensive technologies so they can improve their chemical weapons combat capability. This exchange of technical information, mandated by the treaty, may also be used to develop ways to defeat our chemical weapons defensive technology. Because of these flaws in the treaty, Senator Cheney wrote in his judgement, the treaty’s Articles X and XI amount to a formula for greatly accelerating the proliferation of chemical warfare capabilities around the world.
globes. This mandated sharing of technology represents one example of how the treaty may actually do more harm than good.

I want to point out that one of the conditions removed from the Resolution of Ratification was the direction to the Secretary of State to renegotiate Articles X and XI to ensure the treaty does not inadvertently increase the threat of chemical weapons. The Clinton Administration viewed the requirement to renegotiate the treaty as a "killer amendment" and encouraged the Senate to strike this condition. Under pressure from the President, the Senate voted to remove this condition so renegotiation of these important articles will not happen.

In addition, the President's letter to Majority Leader Lott on the day of the vote acknowledges that there are legitimate security concerns regarding the flails in Articles X and XI. I'm troubled because the letter is non-binding and it will be three years before we will learn if Articles X and XI lead to the proliferation of chemical weapons technology. The President says the U.S. could then withdraw from the Convention, but by then the damage will have been done.

I believe this treaty by itself would stop chemical weapons, I would support it. During my own deliberations regarding the CWC, I had a thoughtful discussion with James Schlesinger, a former Secretary of Defense, Secretary of Energy and Director of the Central Intelligence Agency. Secretary Schlesinger made the point that although scores of nations ratified the Geneva Protocol which claimed to "prohibit" the use of poison gas, Iraq used mustard gas against Iran and its own citizens with impunity. In my mind, this episode demonstrates one of the weaknesses of international treaties which sound good on the surface but lack enforcement procedures in practice.

I am also concerned about the provisions of the Chemical Weapons Convention which will allow international inspectors access to chemical businesses and other important national security facilities. The idea that North Korea or Iraq can come into the United States and examine our facilities and then take that information home to help their own chemical and defense industries is wrong. The treaty makes no arrangement to compensate businesses for the loss of this sensitive data. This is another reason I believe the Chemical Weapons Convention will, in fact, do more harm than good.

As a member of the Senate Armed Services Committee, I understand the military threat posed by chemical weapons. I continue to support efforts to destroy the U.S. chemical weapons stockpile in a safe and environmentally sensitive manner. I oppose any type of non-directive treaty that I believe the United States should threaten massive retaliation against any nation that might consider using these weapons against our citizens or soldiers. I am also very proud of the leadership role of the United States in the fight to stop the spread of chemical weapons. Without a doubt, this leadership role will continue whether or not we ratify the CWC.

But we must also be honest with ourselves. The Chemical Weapons Convention cannot be verified. The treaty will not prevent countries or terrorists from acquiring or using chemical weapons. The treaty may in fact increase proliferation of advanced defensive technologies and the treaty may jeopardize proprietary information of U.S. companies.

As I weigh these facts, I conclude the Chemical Weapons Convention with which we voted will do more harm than good and I will cast my vote against the ratification of this treaty.

Mr. DeWine. Mr. President, I will vote today to ratify the Chemical Weapons Convention (CWC). I do so without any illusions. I have concluded that it will be of marginal benefit, but that its benefits do outweigh the risks. Clearly, no chemical weapons treaty can be 100% verifiable. Inside the CWC, there is at least a better chance of catching violators than if we remain outside the treaty.

I commend the Chairman of the Foreign Relations Committee, Senator Helms, as well as Senator Kyl, and others who have worked so hard to improve this treaty. As a result of their efforts, for example, we retain the right for our troops to use tear gas in hostage rescue operations; we require search warrant surveillance; we provide for sanctions against those who trade in chemical agents with non-parties to the treaty. These provisions will help to ensure that on a future battlefield our troops will be less likely to face chemical agents.

Passage of this treaty should not bring a false sense of security. A treaty alone will not protect our troops and citizens from chemical weapons. We should continue our investment and resources to improving our chemical weapons defenses. We should provide our troops with the equipment and training they need as combat situations. The parties to this treaty must also take action against those who resort to using chemical weapons. As a member of the Intelligence Committee, I will work to ensure that the goals of this treaty are not lost in its implementation.

Mr. Feingold. Mr. President, I rise today in support of the resolution of ratification of the Chemical Weapons Convention.

I am pleased that—more than 3 years after the administration sent this treaty to the Senate—the CWC is finally before us on the floor of this Chamber. In these three years, Mr. President, three Senate committees have held numerous hearings—more than 70 of them—on the efficacy of this treaty. As a Member of both the Foreign Relations and Judiciary Committees, I have been privileged to participate in several of these hearings and to hear numerous perspectives during this debate.

More recently, several Senators and Administration officials have spent a considerable amount of time negotiating the terms under which this treaty would come to the floor. And so I think we should all thank the Chairman of the Foreign Relations Committee [Mr. Helms] and the Senator from Delaware [Mr. Biden], the ranking member of that committee, for the time they both have spent on this issue.

I am pleased to recognize the efforts of the White House Working Group and the Lott Task Force to come to a consensus on the aspects of this treaty on which we can agree. I know that the Members and Administration officials involved in these negotiations have spent countless technical details. It is because of these efforts that the resolution of ratification before us today contains many agreed-upon conditions. These conditions were carefully crafted by the Members and Administration officials to address Members' specific concerns. I am myself comfortable with these conditions, which, for the most part, dutifully exercise the Senate's prerogatives with respect to treaty ratification, and instruct the Administration to undertake certain commitments. They also require greater reporting requirements which will help the Senate to monitor U.S. participation in the Convention in the future.

I am pleased that our colleagues have come to agreement on these points, because throughout the deliberations over this convention, I have made two observations: No. 1 the CWC is not a perfect document, and No. 2 notwithstanding that, the CWC is the best avenue available today for beginning to control the spread of chemical weapons, and leading, eventually, to the total elimination of such weapons.

Like any document arrived at through consensus, the CWC is not a perfect document. It does not provide for the most part, duly exercise the Senate's prerogatives with respect to the treaty. The CWC requires many provisions that are not included in the treaty itself. The CWC is not a perfect document. It does not provide for the most part, duly exercise the Senate's prerogatives with respect to treaty ratification, and instruct the Administration to undertake certain commitments. They also require greater reporting requirements which will help the Senate to monitor U.S. participation in the Convention in the future.

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legitimate threat to the security of the United States.

Nevertheless, I think we gain more by establishing an international re-
gime that prohibits such behavior than we do by refusing to exercise U.S. lead-
ership in that fact and narrow its views.

My second, and more important, point is this: The CWC is the best ave-
nable today for beginning to control the spread of chemical weap-
on, and leading, eventually, to the total elimination of such weapons.

Those countries that do ratify the treaty—and this group represents most of
the responsible players on the international stage—recognize that through
the CWC, the world firmly rejects the existence and use of chemical weapons.
The treaty puts in place mechanisms to enforce its precepts and monitor its
progress, and signatories are committed to complying with these mecha-
nisms.

What of the handful of nations who flout international will, and will not
sign on to this treaty?

First, defense experts at the very top of our military command structure are
satisfied that the use of chemical weapons by these so-called rogue states
does not pose a significant threat to our national security. In March 1996,
then-Secretary of Defense William Perry told the Foreign Relations Com-
mittee that he was “damm sure” that the United States could respond mas-
sively and effectively to any chemical weapons challenge.

Moreover, the CWC will make it easier for the international community to
track the chemical ingredients necessary for weapons production and to
inhibit the flow of these materials to rogue or non-signatory states. The Conven-
tion will impose trade sanctions on non-signatory countries whether or
not they are known to possess chemical weapons. This provision was devised
by the Bush administration specifically to make it expensive for countries not
to join this Convention.

As Secretary of State Madeleine Albright said in testimony before the
Foreign Relations Committee earlier this month, “These penalties would not
exist without the treaty. They will make it more costly for any nation to
have chemical weapons, and more difficult for rogue states or terrorists to
acquire materials needed to produce them and, if the United States refuses
to ratify.

Those states that we are most concerned about currently are unwilling to
accept the norms that the treaty would establish. That is why they have thus
far chosen not to ratify. But it is just as clear these states will never accept
the treaty if the United States refuses to ratify.

This is why I plan to vote in favor of striking the so-called killer amend-
ments that would tie the deposit of our instrument of ratification to the ac-
tions of these nations.

If the linkage were to remain in the resolution, the Senate would become
responsible for painting the United States into a very uncomfortable cor-
ner, a corner from which we would be unable to exit. Such conditions would
force the United States, which led the negotiations of this treaty, to engage
in a game of chicken with other countries. It should instead join our allies
in ratifying the treaty, and it should ratify it.

Mr. President, this treaty provides a solid start to limiting the flow of
chemical weapons.

It urges the destruction of all chemical weapons and more information about
the prevalence of chemical weapons than we have ever had before.

And it will make the dissemination of such weapons—and the mate-
rials used to make them—more action-
able than they have ever been before.

Mr. President, do I think the treaty could be improved? Of course. So I am
pleased that the CWC has the provision for amendment after it comes into
force.

But now is not the time to debate amendments to the treaty. One hun-
dred sixty-one nations have signed the Chemical Weapons Convention and 74
of them have ratified it.

I think we can all assume that—just as we played a leading role in negoti-
atations for the existing treaty—the United States will again be at the forefront
efforts to make the treaty more effective after a period to test its utility.

We have the technological means and the economic weight to do so. But only
if we ratify this treaty prior to its entry into force on April 29. Only by
that deadline—now less than a week away—will the United States be a full
participant in the Organization for the Prohibition of Chemical Weapons
(OPCW), the governing body that will have the responsibility for deciding the
terms for the implementation of the CWC.

Would I like to see the enforcement provisions of the CWC written in a less
ambiguous manner? Yes.

Could sanctions against violators be spelled out more clearly? Absolutely.

But the CWC was laboriously crafted throughout three decades to meet the
security and economic interests of States Parties. The United States led
this effort, and the treaty which we are voting on reflects our needs. As Sec-
retary Albright has said, this treaty has “Made in the USA” written all over
it. That is why the CWC has the backing of the five permanent members of
our defense and business communities.

Mr. President, I would like to add an amendment that is of particular import-
tance to me, and that is the potential constitutional implications of this
treaty.

In particular, the argument has been made, incorrectly in my opinion, that
adoption of the CWC would subvert, in some way, the constitutional protec-
tions of the fourth amendment—which as Americans we all enjoy. Let me say
at the outset that preserving the fourth amendment is a responsibility that I
take very seriously and very personally. My concern about preserving
the protections of the fourth amendment does not end at the corners of this
treaty.

I have opposed in this Con-
gress proposals to weaken the fourth amendment’s protections, for example,
in the area of wire taps.

I am pleased to see that
throughout the debate over this treaty, many of my colleagues have taken an
active interest in promoting the rights bestowed upon us by the fourth amend-
ment. Indeed, I welcome the oppor-
tunity to work with these members on future initiatives related to this vital
 provision of our Constitution.

With respect to the claim that ratifi-
cation of this treaty risks constitu-
tional protections for Americans, I
think three points need to be stressed.

First, the treaty, and in particular
the inspection language therein, is the
product of bipartisan efforts spanning
many years. In fact, it was the Bush
administration which rejected efforts
to adopt overly broad, and undoubtedly unconstitutional, proceed-
ings in favor of those in the treaty
today.

Second, although the treaty itself
acknowledges the supremacy of the con-
stitutions of its signatories, this would
not have occurred ever without specific lan-
guage. The Senate cannot, be it
through signing a treaty or passing a
law, subvert any of the protections
guaranteed by our Constitution. That
is the very essence of our Constitution:
that it is the bedrock of our freedoms
and cannot be abrogated short of amend-
ment to the Constitution itself.

Mr. President, during a Judiciary
Committee hearing last September, I
questioned Professor Barry Kellman of
the DePaul Law School on various as-
pects of the constitutionality of this
treaty and on each of the points I have
raised here today. On each point, Pro-
fessor Kellman was in agreement with
me. In fact, Professor Kellman, who
had advocated many years, and much
time and energy to reviewing the con-
stitutional implications of the Chemi-
cal Weapons Treaty, testified that,
“every serious scholar” who has looked
into the issue has found this treaty to
be constitutional.

Finally, to the extent there are con-
cerns to be addressed, and there may
be, the proper context for airing those
concerns is during what I expect to be
a lively discussion over the implement-
ing of the treaty, not a debate over ratifi-
ation. By establishing how to handle
these issues should be addressed and re-
solved.

I look forward to working with con-
cerned colleagues as we consider imple-
mentation of the treaty, so I am
pleased that the unanimous consent
agreement arrived at regarding the res-
olution of ratification before us today
included the intent to debate and vote
on the implementing legislation prior to
the Memorial Day recess.

As the debate over the implementing
language continues, I will work with
my colleagues to ensure that the language we ultimately adopt fully and properly reflects the protections embodied in the United States Constitution.

In the interim, however, we should not become sidetracked by arguments that this treaty is unconstitutional or subverts the fourth amendment. The inspections conducted pursuant to this treaty will be conducted pursuant to the Constitution of this nation. Nothing in this treaty can, nor does it even attempt to, alter that simple, but fundamental fact.

Mr. President, I support the ratification of the Chemical Weapons Convention which I believe is in the best interests of the United States.

And if the Senate is to lend its support to this treaty, we must vote to strike each one of the five conditions before us. Four of these would pronounce the treaty dead on arrival by linking the deposit of the U.S. instrument of ratification to conditions that are simply impossible to achieve—by April 29, or at any time in the near future. The other condition would establish the selection of inspectors that would greatly undermine the entire inspection process.

Mr. President, it is imperative that those of us who support this treaty help to strike the language that would undermine U.S. participation in the Convention in this manner.

And, after doing so, Mr. President, I hope my colleagues will join me in voting for final passage of the resolution of ratification.

Mr. LAUTENBERG. Mr. President, I rise to urge my colleagues to ratify the Chemical Weapons Convention.

The Chemical Weapons Convention is a historic arms control treaty which will significantly enhance America's security. The treaty prohibits the development, production, acquisition, stockpiling, and transfer of chemical weapons by those countries that are signatories. Signatories will begin to destroy their chemical weapons within a year and to complete destruction of chemical weapons within ten years. Importantly, it prohibits the use of chemical weapons in combat, and it prohibits signatories from helping other countries to engage in any activity banned by the treaty. As such, the Chemical Weapons Convention is an important non-proliferation tool that will help slow the spread of dangerous chemical weapons and force the destruction of most of the world's chemical weapons stockpiles.

President Reagan recognized the wisdom of working to ban chemical weapons worldwide. Under his administration, on the back of the chemical weapons treaty began. Those negotiations continued under President Bush, who signed the treaty. Now, five years after completion, with the full support of President Clinton, the Chemical Weapons Convention is before the Senate for ratification.

There are many good reasons to support the Chemical Weapons Treaty. First, and foremost, this treaty will protect America's military from the threat of chemical weapons attack without requiring America to give up anything militarily. The United States has already decided to destroy its entire chemical stockpile and has vowed not to use chemical weapons in warfare. Because the Chemical Weapons Convention requires other nations to abandon chemical weapons as the United States has done, America gains nothing, and America will do more to reach our common goal of eradicating these deadly and detested weapons from the earth than will non-ratification.

I would like to commend my many constituents, and the thousands of Americans like them, who were relentless in raising their voices against many dangerous aspects of the treaty and its interpretation. Without their readily available as a force to encourage the proliferation of these deadly weapons. But through the good work of Senate HELMS and Senator KYL, we were able to reach 28 agreements with the Administration that have led to the Chemical Weapons Convention ratifying documents.

Since the beginning of the debate on the Chemical Weapons Convention, I have stated that the real question is whether the Senate is willing to support the regime of restricting the production, stockpile, and use of chemical weapons throughout the world, but whether the Chemical Weapons Convention itself advanced or inhibited this honorable cause. As it was originally presented to the Senate for ratification, Mr. President, I believe the treaty did not advance our cause, but instead inhibited it by making sensitive information on chemicals and chemical weapons technology so readily available as to encourage the proliferation of these deadly weapons. But through the good work of Senator HELMS and Senator KYL, we were able to reach 28 agreements with the Administration that have led to the Chemical Weapons Convention that I believe would vote to ratify the Chemical Weapons Convention. I must admit that as the Convention was originally presented, I was inclined to oppose it. But after three weeks of hard work with the Majority Leader and with the many thoughtful opponents of ratification, I believe we have resolved a significant number of issues in contention and now believe that ratification of the Chemical Weapons Convention would be difficult to reach our common goal of eradicating these deadly and detested weapons from the earth than will non-ratification.

Mr. GORTON. Mr. President, I have thought long and hard on whether I should vote to ratify the Chemical Weapons Convention. I must admit that as the Convention was originally presented, I was inclined to oppose it. But after three weeks of hard work with the Majority Leader and with the many thoughtful opponents of ratification, I believe we have resolved a significant number of issues in contention and now believe that ratification of the Chemical Weapons Convention would be difficult to reach our common goal of eradicating these deadly and detested weapons from the earth than will non-ratification.

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I now believe, however, that the agreement reached between Senator Helms and the Administration that ensures our armed forces will continue to receive the equipment and training necessary to complete their missions in the face of chemical weapons is a major improvement which will guard against a debilitating false sense of security.

Second, I and many of my constituents had grave concerns about the treaty's interpretation of national security reasons to receive chemical agents for peacekeeping purposes. The treaty, in its original form, did not go far enough to protect U.S. citizens and businesses from involuntary inspections. The treaty's provisions on challenge inspections of chemical producing facilities in the United States did not, in my opinion, comply with the Constitution.

I am pleased that the administration has agreed to a condition to protect the Fourth Amendment rights of all Americans that amends the Chemical Weapons Convention to the United States Constitution. According to this condition, before the U.S. deposits its instrument of ratification, the President must certify to Congress that for any voluntary inspections in the United States for which consent has been withheld, the inspection team must first obtain a criminal search warrant based upon probable cause, supported by oath or affirmation, and describing the places to be searched and the persons or things to be seized. For any routine inspection of a declared facility in the United States that is conducted on an involuntary basis, the inspection team must obtain an administrative search warrant from a United States magistrate judge.

I am now confident that this agreement will ensure that the constitutional rights of U.S. citizens and businesses will be protected under the treaty. I thank Senators Helms and Kyl, and the administration for their work on this vitally important condition.

Third, I was troubled by the treaty's impact on the use of non-lethal riot control agents. Since the Chemical Weapons Convention was originally drafted, there has been a great deal of debate in the United States on whether the treaty language would preclude American armed forces from using non-toxic agents. I am pleased that the drafters did not do so. Tear gas and other such chemicals provide the United States military with an invaluable tool when conducting sensitive operations. Tear gas, for example, is an excellent means of rescuing downed pilots, or avoiding unnecessary loss of life when enemy troops and civilians are in the same area.

I am pleased with the agreement that has been reached on this issue. According to a condition the administration has agreed to, the President will certify to Congress that the United States is not restricted by the convention in the use of riot control agents in the following situations: (1) in the conduct of peacetime military operations within an area of ongoing armed conflict in the United States is not a party to the conflict; (2) in consensual peacekeeping operations when the use of force is authorized by the Security Council under Article 4, Paragraph 3 of the United Nations Charter; (3) if the President certifies that the Chemical Weapons Convention: avoiding unnecessary loss of life, subduing rioting enemy POWs, protecting supply convoys, and rescuing a downed pilot from enemy troops or a POW from behind enemy lines. I commend the administration for agreeing to this reasonable and necessary condition. It will ensure that the men and women of the United States armed forces have the tools necessary to do their jobs in situations.

While the 28 agreements made did go a long way to improve the Chemical Weapons Convention, I still had one remaining concern, in my view the most important concern, until this morning: That concern relates to Articles X and XI of the treaty and the proposition that they might well force the United States to share sensitive information on our chemical weapons defense capabilities and to eliminate our export controls on dangerous chemicals.

Article X of the treaty obliges all parties to provide assistance and protection to any State Party threatened by the potential use of chemical weapons, including information on chemical weapons defense and detection. Article XI of the treaty obliges all parties to freely exchange chemicals, equipment and scientific and technical information relating to the development and application of chemistry for purposes not prohibited by the convention. It forbids parties to the treaty to maintain export controls that would restrict the trade and development of chemicals and chemical technology with other treaty parties.

Ironically, these provisions of the treaty, a treaty designed to eliminate the proliferation of chemical weapons, could in fact promote that very proliferation if the United States is forced under the treaty to provide this sensitive technology to countries such as Iran, China, or Cuba, those countries could use that information to develop weapons against which we have no ability to defend.

It is my contention that Articles X and XI do more to inhibit the cause of eradicating chemical weapons than they do to promote it. Thus, they comprise a fatal flaw in the Chemical Weapons Convention. And, until today, I was inclined to vote against ratification because of my concerns on Articles X and XI.

I am pleased to say, however, that the distinguished Majority Leader was remarkably successful in his negotiations with the President on this most important aspect of the debate on the treaty. I commend him for his diligence and commend the President for his wisdom in responding to our concerns.

This morning, the President sent Senator Lott a letter in which he extended a promise that the United States will withdraw from the Convention if Articles X and XI are used by other treaty parties to undermine the intent of the Convention. The specific circumstances under which the President agreed to withdraw from the treaty are as follows: (1) if Article X is used to justify actions that could degrade the U.S. defensive capabilities; (2) if Article XI erodes the Australia Group export controls; and (3) if Article XI promotes increased proliferation of chemical weapons.

With the assurance from the President, I am now prepared to support the Chemical Weapons Convention and will vote for its ratification. With the 28 agreements Senator Helms and Senator Kyl were able to negotiate, and with the final commitment from the President, I am comfortable with the treaty. The Convention has been transformed from one doing more harm than good, to one promoting rather than inhibiting the cause of eradicating chemical weapons from the earth.

In closing, Mr. President, let me say that these changes could not have been made without the diligent and good faith negotiating done by the majority leader, and without the voices raised by those of us who opposed the President's ratification of the treaty. Senator Helms and Senator Kyl were right proposals of the American people and Congress saw fit to ensure our armed forces will continue to have the tools necessary to do their jobs in situations.
I veterans, carried scars in their lungs for the rest of their lives. It made breathing difficult and left many of them invalids.

Chemical weaponry has come a long way in the 79 years since that battle took place. And in the last 20 years, technology has made this type of warfare more devastating and more deadly. It can now kill instantly as well as scar and maim the lungs.

Chemical warfare is an indiscriminate weapon. It doesn't tell the difference between a soldier and a civilian, a bunker from a subway, or a barracks from a school.

And worst of all, some chemical weapons are relatively easy to create. As we have seen in recent news reports, if the substances used to create chemical weapons are freely available, terrorist groups and cults can make them and use them against civilians.

This, of course, often makes them hard to detect. So the critics of this Convention have a point when they say it will be hard to verify.

But this agreement will make it much easier than it is now for us to find out if rogue states try to create or stockpile chemical weapons. We will be able to inspect those facilities and defense installations of those we suspect are creating these weapons. And we will be able to block those who do not sign from buying the substances they need to create chemical weapons.

That is why this treaty has wide support. If we choose not to ratify it, we cast ourselves with such countries as Iraq and Libya—one which used chemical weapons against Iran and its own Kurdish citizens, another suspected of clandestine efforts to create a chemical weapons program.

And we make it more likely that some day, another generation of American servicemen and servicewomen will suffer the same fate as their predecessors. The U.S. military has the most intrusive, comprehensive inspections for weapons of mass destruction ever devised or implemented by an international organization. Yet, we continue to uncover secret sites and weapons facilities in places we know the extent of Saddam Hussein's lethal stockpile. If we are uncertain under the best of conditions, we should not underestimate the significant risks under adverse circumstances.

Mr. President, our second concern is the unforeseen impact inspection requirements might have on U.S. businesses. One estimate puts the number of Kentucky businesses which are likely to be impacted by the CWC at 44. Not all of these companies are large enough to be able to afford the increased costs of additional burdensome regulations. The chemical industry is already one of the most over-regulated industries in America. Currently, the EPA, OSHA and other federal regulations on the industry is near $4.9 billion annually. Adding to this incredible financial burden is overkill.

In addition to the costly regulatory burden, CWC asks these companies to withstand, the treaty will require companies to open their books and facilities to foreign inspection teams—creating a Pandora's box of commercial hazards. Former Defense Secretary Donald Rumsfeld points out, despite best efforts its possible, even likely, that inspection teams could come away with classified and proprietary information.

With some who are less familiar with the advice and consent process may regret the pace the Senate has undertaken. I strongly believe it has a point of pride. The Senate, led by Majority Leader Lott, Senator Kyl, Senator Helms, Senator Lugar and many others, has painstakingly reviewed the CWC for many months. The many conditions which have been the subject of protracted negotiations have created a document which better protects our nation's security interests. I congratulate all who sat at the table, the participants for their efforts.

Despite the best efforts of all involved I continue to harbor a number of strong reservations about the convention. I am concerned about its verifiability, the impact on U.S. business, the effect on U.S. efforts to eliminate existing chemical weapons stockpiles, and the number of rogue nations which are not party to the CWC.

Former CIA director James Woolsey testified that detection of violations of the CWC is so difficult that we cannot “have high confidence in our ability to detect noncompliance, especially on a small scale.” Nowhere is this more evident than Iraq. In a recent column, Charles Krauthammer pointed out that the most intrusive, comprehensive inspections for weapons of mass destruction ever devised or implemented by an international organization. Yet, we continue to uncover secret sites and weapons facilities in places we know the extent of Saddam Hussein's lethal stockpile. If we are uncertain under the best of conditions, we should not underestimate the significant risks under adverse circumstances.

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Specifically, the inspection requirements may compel companies to provide proprietary technical data which could be used to considerable financial advantage by competitors. Worse yet, the results might enable adversaries to enhance their chemical weapons capabilities, putting American soldiers and citizens at greater risk. These risks tend to include the imperative protections in Condition 31 enabling the President to ban inspection teams with terrorist record.

The third issue of concern relates to Condition 27's direct effect on my state and the ability to dismantle our existing stockpiles. Kentucky is home to the Lexington Bluegrass Army Depot where thousands of chemical munitions are stored and the community surrounding this facility is justifiably concerned over the method by which the weapons will be destroyed. The Treaty mandates signatories register specific technical plans for destruction and destroy their stockpiles by 2007. Mr. President, this is not the case with as the method of destruction is not pre-determined.

Let me explain. Last year, I offered an amendment to the Defense Appropriations Bill which directed the Secretary of Defense to pursue the acquisition of at least two alternative technologies to the current plan of incineration. Condition 27, provides some assurance that the development and use of these technologies would not be affected by the CWC regime. However, if this agreement between Congress and the Administration is overruled, reversed or challenged by the Organization for the Prohibition of Chemical Weapons chemical agents will be placed at increased risk. It accepts the President's written guarantee at this point, but will keep a close watch to assure his commitment is not reversed or revised. I ask unanimous consent that a letter from President Clinton to me on this issue be included in the Record following my remarks.

The PRESIDING OFFICER. Without objection it is so ordered. (See exhibit 1.)

Mr. McCONNELL. Condition 27 also presents another problem. Current law requires the President to destroy the U.S. stockpile by 2004. Condition 27 extends the deadline to 2007. Mr. President, out of obligation to this provision, I do not believe it wise to give the Army, or any party the opportunity to slow down efforts to identify alternative technologies or to delay the destruction process. The weapons stored in the U.S. need to be dismantled now. They are aging and therefore becoming more unstable every day. As this occurs, safe destruction becomes increasingly difficult and the chance of an accident increases dramatically. I hope the Administration will not seek a delay in the destruction deadline unless it is absolutely necessary in order to undergo the safe and effective elimination of our weapons.

Finally, Mr. President, the fact that many of the nations with either the intent or the means to attack U.S. soldiers and civilians with chemical weapons are not covered by the CWC is deeply troubling. Iraq and North Korea are all suspected of possessing chemical weapons and not one is a participant in the CWC. This fact is strong justification for maintaining Condition 30 which compels them participation in the CWC.

If the U.S. ratifies the CWC the horrors of chemical attack will not magically disappear. Those of us in the
United States Senate must remain vigilant in ensuring that America continues to prepare adequate defensive capabilities against potential chemical or biological attack. Incidents such as the sarin gas attack in the Tokyo subway cannot be prevented by this or any other treaty.

The world remains a dangerous place and this treaty will not substantially change that fact. The Secretary of State insists that this Treaty is not about our chemical weapons—it is an international obligation, a means of reducing and preventing the use of these weapons. Indeed, the Administration amendment to the FY 1997 Defense Appropriations bill requires the Administration to seek a prohibition of the use of chemical weapons worldwide. I look forward to your support for Senate ratification of the CWC in the weeks ahead.

Sincerely,

BILL CLINTON.

Ms. MOSELEY-BRAUN. Mr. President, in recent weeks we have heard a great deal about the Chemical Weapons Convention. We have talked about the risks of information sharing, the reliability of the verification systems, and whether the treaty is less than a week before the ratification deadline, that this treaty has become a point of political division here in the U.S. Senate.

This treaty is the first global arms control agreement to ban an entire class of weapons. Participating states must destroy their chemical weapons within 10 years of the treaty’s enactment and pledge to never make them again. The agreement also creates an international organization for monitoring, ensuring compliance, and signatories must exchange data and permit routine inspections of their facilities.

Nations refusing to participate will be barred from purchasing the ingredients necessary to make chemical weapons and many commercial chemical products, and will face heightened scrutiny over their chemical weapons activities. Their chemical and biotechnology industries will face great international trade obstacles.

Opponents of the Chemical Weapons Convention argue that this treaty should not be ratified because countries such as Iraq, Iran and Syria are not signatories. They argue that the treaty is unverifiable, that it is intrusive, and that it will damage international trade information held by the U.S. chemical industry, and that, due to the Clinton administration’s refusal to modify article 10 and 11, the United States will be forced to share critical chemical defense technologies and equipment.

I do not subscribe to this interpretation. The sanctions provided by this treaty for nonmembers were designed with the distinct understanding that pariah states were unlikely to join the agreement, and therefore would be isolated and targeted for sanctions.

Furthermore, article 10 does not obligate the United States to share chemical defense technologies and equipment with member or nonmember states. Article 11, in fact, provides the United States with the flexibility to determine how and what types of assistance should be provided to signatories. Article 11 will not force private businesses to release proprietary information. The convention legally binds signatories, via article 1, never to engage in any activities prohibited under the convention, greatly decreasing the likelihood that nations would seek to profit by giving secrets to non-signatories.

For the American people, the benefits of the Chemical Weapons Convention are clear. Its provisions will diminish the threat of chemical warfare against our young troops overseas. It will help protect Americans at home from terrorist attacks like the kind that occurred in the Tokyo subway. And it gives us new tools to help us track down and punish nations that violate this treaty.

The amount of good that this treaty can accomplish has been recognized by the leadership of the civilized world. One hundred and sixty-four nations have signed, and seventy-four nations have ratified this agreement. The treaty,
which was negotiated by the Republican administrations of Reagan and Bush, has been endorsed by military leaders like General Powell and General Schwarzkopf. It's supported by the chemical manufacturers, and most significantly, it is supported by the American military.

The Senate has less than 1 week, however, to ratify this treaty. If we miss the April 29 deadline, the world will move ahead without us, and the United States will lose a critical opportunity to take a stand against the worldwide proliferation of chemical weapons. America will lose its seat at the table in the international enforcement process, and American inspectors will be barred from examining foreign facilities. Our chemical industry will lose hundreds of millions of dollars per year as a result of the treaty's trade restrictions. And we will sit on the sidelines with outlaw nations like Libya, North Korea, Iraq, and Iran.

The United States is not an outlaw nation, and should not be considered one because of our failure to act. We cannot stop these deadly weapons alone, and the world cannot stop these weapons without us. As President Clinton recently said in a letter to the Senate, "We must be shapers of events, not observers." If we want to continue our leadership role into the next century, then it is time for the United States to be aligned with the international community and end the use of chemical weapons. Each and every nation that stockpiles, and use of chemicals as weapons of death will move ahead without us, and the world cannot stop these deadly weapons alone, and the world cannot stop these weapons without us.

Of course no treaty can ever eliminate every threat. That is why the United States must continue to maintain our strong chemical weapons defense program. At the Aberdeen Proving Ground in Maryland, scientists and technicians are developing better ways to protect our troops from the effects of chemical weapons. This important work must continue.

In addition, our intelligence agencies, the National Security Agency, must continue to provide the kind of information that protects the United States from chemical weapons. The National Security Agency is listening in on the international criminals and terrorists as they seek to buy chemicals and produce weapons. The Chemical Weapons Convention will aid these efforts by making it harder for terrorists to get chemicals that could be turned against Americans.

America has always led the effort to end the use of chemical weapons—and the convention will ensure that other countries follow our lead. We have already decided not to use chemical weapons and we have started to dismantle our chemical stockpile. Maryland is one of seven States that stores chemical weapons left over from the First and Second World Wars. For many years, we have lived with the threat of an accident. We are only now preparing to neutralize the chemical weapons stockpile that is stored in Maryland. We in Maryland know first-hand the dangers these chemical weapons pose to military personnel and civilians. America's priority must be to safely dispose of these lethal chemicals—not to produce them.

Mr. President, The Chemical Weapons Convention will make it harder for thugs and rogues(174,900),(222,970) to make and use chemical weapons. I urge my colleagues to join me in voting for its ratification.

Ms. SNOWE. Mr. President, in my view there is no greater threat to our nation's security than the proliferation of weapons of mass destruction. Among these is the scourge of chemical weapons which have been unleashed in this century with such horrifying effect in the trenches of the First World War, in the villages of Iraq a decade ago, and more recently in the Tokyo subway. The United States took a bold unilateral decision to destroy our chemical weapons stockpile because they serve no military purpose. And in 1990 the United States negotiated a bilateral chemical weapons destruction agreement with the Soviet Union in an effort to begin the process of reducing that country's stockpiles, the largest in the world. The leadership of the United States through the years has been crucial in forging the broad international consensus called the Chemical Weapons Convention. The whole world is watching us closely today to see whether or not the United States is going to continue its leadership role on this critical issue.

The United States must not retreat from more than a decade of leadership on controlling chemical weapons. We must ratify the Chemical Weapons Convention before it comes into force on April 29—not just to maintain our leadership on this issue, but because it is in our best interests to do so.

The issue is not whether the Convention will completely eliminate the threat of chemical weapons. There is no magic wand to do that. However, the Chemical Weapons Convention will do is nevertheless substantial. It will establish—for the first time—an international standard against the production and use of chemical weapons. It will provide us with significant additional tools to detect and disrupt chemical weapons activities. And it will impose trade restrictions that will make it more difficult for rogue states and terrorist organizations to start or continue chemical weapons programs.

Opponents of the Convention argue that it is not adequately verifiable, although many of those same critics argue at the same time that the treaty is too intrusive. The fact is that the Convention includes the most extensive monitoring and inspection regime of any arms control treaty to date. The U.S. chemical industry—which will be the target of most of the monitoring and inspection under the Convention—has given the Clinton Administration its unqualified support for the legislation I have introduced to protect U.S. intelligence which is shared with international organizations.

The trade restrictions imposed by the Convention represent another key element in controlling the proliferation of chemical weapons. Building on the existing trade restrictions in chemicals under the informal Australia Group, the Convention limits trade in the most likely chemicals to be used in weapons production—chemicals—-trade among countries that have already ratified it. The same restrictions will apply after three years to Schedule II “dual-use” chemicals.
A total of 162 countries have now signed the Chemical Weapons Convention and 74 countries have ratified it. Russia, China and Iran—all with known chemical weapons programs—have signed the Convention, but it is unlikely that these countries will ratify it if the U.S. does not first.

Mr. President, American leadership is needed once again. The U.S. must be among the original ratifying states in order to play a central role in setting the terms for the Chemical Weapons Convention. Before this body today sits the work of President Reagan, President Bush and now President Clinton as the United States is the place to set in place a global ban on the manufacture, stockpiling and use of chemical weapons by its signatories. Along with protocols for inspections and sanctions against countries that do not abide by the CWC, the Convention is specifically time-tabled for the destruction of existing chemical weapons and production facilities.

The United States provided valuable leadership for five years in the effort to outlaw chemical weapons and their use. Our government was the driving force behind the negotiations that produced the Chemical Weapons Convention. The CWC will go into effect next week with or without U.S. participation. Failure to ratify the CWC would be a monumental error for the United States; a symbolic retreat from our traditional role in the world that will likely impede our efforts to further eliminate and combat proliferation of weapons of mass destruction.

I do strongly support the immediate ratification of the Chemical Weapons Convention. I want to add my personal thanks to my many colleagues who have worked so hard to bring the articles of ratification to the Senate floor. Senator Biden and Senator Lugar have both been champions in this effort. I have great admiration and respect for both of these Senators and I know many thousands of my constituents also appreciate their leadership on the CWC.

As a member of the Senate Committee on Veterans Affairs, I have been particularly impressed by the support given to the CWC by numerous veterans service organizations. My own state has more than 700,000 veterans and thousands of additional active duty personnel stationed in every corner of my state. The following veterans organization have all called upon the Senate to ratify the CWC: the Veterans of Foreign Wars of the United States; the American Ex-Prisoners of War and the Jewish War Veterans of the USA. The National Gulf War Resource Center, a coalition of two dozen Gulf War veterans organizations has also publicly endorsed the CWC.

Such distinguished senior US military commanders as General Norman Schwarzkopf, former Chairman of the Joint Chiefs of Staff Generals John M. Shalikashvili and Colin Powell, former Chief of Naval Operations Admiral Elmo Zumwalt, and former National Security Adviser General Brent Scowcroft have all publicly called for the ratification of the CWC. Colin Powell appeared before the Veterans Affairs Committee last week; he gave the committee his unequivocal support for the CWC. General Powell stated that the treaty will lessen the likelihood that U.S. troops will be safer from chemical attack in the future. Given the problems many of our Gulf War veterans are suffering that many attribute to exposure to chemical weapons, I believe like Senator Lugar, General Powell’s comments in support of the CWC special consider.

Also of great importance to me in considering the merits of the CWC is the strong support for the chemical industry, both small and large businesses. It is noteworthy that our business community provided advice to the Reagan and Bush administrations on the treaty provisions affecting this industry.

If the United States does not ratify the Chemical Weapons Convention it will not have access to the Treaty’s tools to help detect rogue states and terrorists who seek to acquire chemical weapons. The United States will not be allowed to participate in the Organization for the Prohibition of Chemical Weapons (OPCW), the governing body deciding the terms for the implementation of the Treaty. Therefore, Americans will not be able to serve on inspection teams or influence amendments, and Americans now serving as head of administration, head of industrial inspections, and head of security will be replaced by nationals from countries that have ratified the CWC. Chemical proliferation and terrorism are undoubtedly problems the United States can fight more effectively within the framework of global cooperation.

The Chemical Manufacturing Association has stated that the CWC “does not trump US export control laws.” Instead, the Treaty will expand and improve the effectiveness of non-proliferation by instituting a strong system of multilateral export controls. No information will be disclosed regarding imports, exports or domestic shipments. The CWC will affect approximately 2,000 companies, not 8,000 as the Treaty’s opponents hold. About 1,800 of these 2,000 companies will do nothing more than check a box regarding the production or disposal of Organic Chemicals they produce without specifying the nature of these chemicals. Of the some 140 companies most likely to be subjected to routine inspections, a large
proportion are CMA members, who assisted in writing the provisions of the Treaty. Regardless, it is anticipated that any challenge inspections will more than likely involve military, rather than commercial facilities. Thus, we can reasonably be concerned with a potential negative impact of the CWC on the industry, because clearly this is not the case. On the contrary, if the US Senate chooses not to ratify the Chemical Weapons Convention, American chemical companies risk losing as much as $600 million a year in sales and many well-paying jobs when the mandatory trade sanctions against non-parties are enforced.

Critics insist that the CWC will be ineffective because rogue states suspected of possessing or attempting to acquire chemical weapons, such as Syria, Iran, North Korea and Libya, have not joined the convention. Accordingly, they argue that the United States should not ratify the convention until all these states join. The reality is that only about 20 states are believed to have or to be seeking a chemical weapons program, more than two-thirds of which have already signed the CWC. For four years, the United States has led nonproliferation regimes that have established accepted norms of international behavior. Failing to ratify the convention will not persuade the rogue states to join the CWC. Rather, it will legitimize their actions and hurt US standing within the international community. The Treaty ensures that non-party states are isolated and makes it extremely difficult for them to pursue their nefarious objectives.

I urge my Senate colleagues to reflect on the measure of American leadership and the indispensability of our nation on nonproliferation issues and to vote for the Chemical Weapons Convention. This Treaty makes sense on political, legal, and moral grounds. As officials of both Republican and Democratic administrations assert, the Chemical Weapons Convention will ensure that Americans live in a safer America and a safer world.

Mr. BOND. Mr. President, I will vote against ratification of the Chemical Weapons Convention. I came to this decision, not because I am against doing away with chemical weapons, we all are. I will vote against ratification because I believe which I believe were critical to ensuring our safety and security were stricken rendering the convention more dangerous to our well being than one which would include those conditions, even if it means having to renegotiate the convention. Of the outstanding amendments which were debated through out the day today, I believe those covering Russian ratification and their compliance with previous treaties, the rejection of inspections without the express consent of those states with a history of violating non-proliferation treaties or which have been designated by our State Department as sporting terrorists, striking article 10 of the treaty and amending article 11, and having our intelligence agencies certify that the treaty would be credibly verifiable were critical to making the treaty worthwhile.

The fact that the President suggested we consider renegotiating the convention if there were a compelling reason to do so, was a placebo which carried little viable meaning. I believe that it would not only be more difficult to withdraw from the convention once we ratified it, it would be much more dangerous to withdraw after obligating ourselves to a flawed treaty. And so, I must, in good conscience, vote not to ratify.

Mr. HATCH. Mr. President, the first thing I wish to express is my gratitude to the Chairman of the Foreign Relations Committee and the Majority Leader for the work they have done in the final weeks to improve this resolution of ratification.

The treaty. The Chemical Weapons Convention before us is significantly better than what we faced last year. In addition, I wish to compliment both the Chairman and the Ranking Member of the Foreign Relations Committee for holding numerous hearings during the past month and a half, and also for having led the debate over the past two days. The duty of this body to advise and consent has never been more honorably met.

This treaty, with the resolution of ratification, is an acceptable treaty. It is not the panacea for chemical weapons that some of the more adamant proponents have implied or suggested. It will not, in and of itself, spare our grandchildren from the horrors of chemical warfare. It will not, in and of itself, protect our citizens from terrorists intent on using chemical weapons.

This Convention will not significantly reduce the threat of terrorism, Mr. President. Now that this debate is over, I hope the American people will be more concerned about the future of this agreement that everyone be realistic about this. The Administration and other proponents of this agreement recognize this when they stated in the resolution of ratification, condition 19 that: "The Senate finds that without regard to the Administration's ratification, while now an acceptable treaty and amending article 11, and having our intelligence agencies certify that the treaty would be credibly verifiable were critical to making the treaty worthwhile."

Mr. President, I am greatly concerned about future terrorist threats to the citizens of this country, and I urge those who have suggested that this Convention will curb that threat to deceive from such counterfeit rhetoric that could disastrously mislead us about future threats.

In today's world, just as the ardent proponents of the CWC that a number of nations will remain outside of this regime, and some of them have policies inimical to this nation's welfare and security. I have read the Convention, and I wish to state that I read Article XI, section (d) to mean that the U.S. is free to pursue any action—unilaterally or multilaterally—against nations having chemical weapons. Furthermore, I must state, I am concerned that current trade sanctions promoting U.S. national security, and supported by this body as well as the executive, will not be infringed by this Treaty.

The benefits of this Treaty will not necessarily approach the benefits of its proponents. In my opinion, overblown rhetoric enhanced the possibility that this Treaty could have failed, as some of us studied the document and realized the great gap between the rhetoric and reality.

The current resolution of ratification helps to close that gap. The conditions included in the resolution preserve the Senate's constitutional role in treaty-making, including approval of amendments to the CWC. Agreed conditions established standards for U.S. intelligence sharing, including requiring reports on such sharing. They limit the sharing of defensive capabilities under the CWC. They require the President to report regularly on the use of riot control agents in wartime circumstances, preserving for us that option along the lines originally intended by our negotiators under President Reagan. They require the President to report regularly on the threat of chemical weapons.

Finally—and this is extremely important, Mr. President—the resolution of ratification requires criminal search warrants for challenge inspections against non-complying parties.

I stress again, Mr. President, my gratitude to those, on both sides of the aisle as well as in the Clinton Administration, who negotiated this resolution.

The letter the Majority Leader has obtained from President Clinton also helps close the gap between rhetoric and reality. The President recognizes, and I wish to quote from this letter, that the United States has led nonproliferation regimes that have established accepted norms of international behavior. Failing to ratify the convention will not persuade the rogue states to join the CWC. Rather, it will legitimize their actions and hurt US standing within the international community. The Treaty ensures that non-party states are isolated and makes it extremely difficult for them to pursue their nefarious objectives.

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at all. This Treaty has many practical limitations, and I believe that we should not impugn the motives of individuals who, at the end of the day, have great reservations over its benefits.

I have supported many arms control agreements myself, Mr. President, but always after careful consideration of the strategic value as well as practical consequences of making so grave a commitment. And I must say that it has never been more difficult for me to determine the net worth of an arms control agreement as it has been for me regarding the Chemical Weapons Convention before us today.

I have concluded that this treaty can advance our security, but only if Administration matches the rhetoric of arms control with the muscle of political will. Because, Mr. President, international norms without political will do not become norms.

Benefits of treaties are measured on achievements, not intentions. If intentions were all that mattered, all treaties would be beneficial prima facie. By this standard, the Kellogg-Briand Treaty, which outlawed war, or the 1925 Geneva Convention Against the Use of Chemical Weapons, would have been rousing successes. History has proven that they were not. But, the success of treaties is measured in reality, not rhetoric. And the benefits of this Treaty are measured on a narrow margin.

It is after a careful parsing of this margin, and much reflection, that I have determined that I will vote for the Chemical Weapons Convention. But I do so with the expectation that this Chief Executive, and subsequent ones, must be wholly dedicated to implementing this agreement in a way that advances U.S. security interests and protects U.S. domestic interests.

Mr. President, this Treaty will give us some options and other data collections—that will enhance our knowledge of the threat of chemical weapons. The information will not be comprehensive; it will not apply universally. But, if in collecting this information we reduce the possibility that our troops will face a chemical threat, then this is a tangible, defensible goal, for which anyone could support this Treaty.

The United States has been a principal negotiator of this agreement, through Republican and Democratic administrations. To abandon it now would be to abdicate U.S. leadership. We are now burdened to support it and implement it. The goals are admirable. The bridge to achieving those goals, to bridging the gap between the idealistic rhetoric and the vexing reality, will be difficult. On that bridge, Mr. President, will ride the credibility of the United States, and, I believe, the credibility of future arms control. Past administrations have led in the establishment of international norms. Future administrations will need to verify its legitimacy. President Clinton must carry through on his pledge for strict international compliance and for vigilance regarding threats by terrorists or renegade groups.

Over 70 nations have ratified this Convention. Of course, we decided to ratify immediately. Mr. President, we are proceeding as expeditiously as possible, restrained only by prudence regarding safety and the environment. We've known all along that our unilateral decision could influence the outcome of this debate. We determined these weapons were not militarily useful to us; our defense establishment can preserve and promote our national security without them. But as of the moment that our instrument of ratification is deposited, we will be the first of the countries with a large stockpile to ratify. The United States is leading. Will other nations follow?

Mr. President, I wish to say a few words about Russia. With the consent of the Senate today, the Administration will be able to deposit the instrument of ratification before the April 29 deadline, allowing U.S. participation in the formation of the Organization for the Prohibition of Chemical Weapons. The Russians have joined us—on the futility powers that voluntarily declare they have chemical weapons. On two occasions the Russians have joined us—in the 1990 Bilateral Destruction Agreement and under the 1989 Wyoming Memorandum—agreements to expose and destroy our stockpiles. As those who have studied this question know, the record of Russian compliance is not good. As those who read the papers and get the briefings know, the Russian chemical arms capability is not stagnant.

President Yeltsin has indicated that he wishes the Russian Duma to approve ratification before the April 29 deadline. I hope they do. The Russians need to join us in the initial construction of this regime. And we need to begin to inspect and expose all of our stockpiles. If the Russians are not part of this Treaty, Mr. President, this regime may be stillborn, because the largest stockpile of chemical weapons in the world exists in the Russian Federation. I hope we can work with the Russians as partners beginning next week.

If the Senate gives its consent today, Mr. President, next week the hard work will begin. The success or failure of this regime will not be a function of depositing the instrument of ratification. It will be a function of implementing the Agreement. I am supporting this Convention today because I think it bilateral, and it will succeed with U.S. participation—and leadership. It can fail for many reasons, including non-compliance or nonparticipation by nations around the world. But it won't succeed without U.S. leadership.

Leadership will require more than idealistic promises. We must abandon the rhetoric of unattainable promises and commit to the reality of national interest. I fear the Administration will have a lot of work building the bridge between the rhetoric and reality. On that bridge lies the future of this Convention and the future of arms control.

Mr. HELMS. Mr. President, let me state the order of the distinguished speakers on this side of the aisle. I am going to start with the most distinguished of all. The President pro tempore of the Senate, Senator Thurmond, will have 5 minutes; followed by Senator Hutchison of Texas, for 5 minutes; Senator Hutchinson of Arkansas to follow with 2 minutes; Senator Brownback, for 1 minute; Senator Kyl, for 1 minute; Senator Ashcroft, for 2 minutes. They will be recognized in that order.

The PRESIDING OFFICER. The Senator from South Carolina is recognized. Mr. Thurmond. Mr. President, I want to recognize the work done on this treaty by floor managers—both in opposition and in support of this very important international treaty. Both sides have made laudable arguments in supporting their different positions. This subject is one of great importance. I want to commend our able majority leader for the long hours he spent working with both floor managers and the administration.

Mr. President, during the Senate Armed Services Committee's review of the national security implications of the Chemical Weapons Convention, I raised concerns about the ability of the U.S. to comply with the treaty obligations to destroy our chemical stockpile within the timeframe stipulated, the universality of the treaty, the verifiability of the treaty, and the administration's interpretation of the proviso on the defensive use of riot control agents by U.S. forces.

Following the committee's hearings on the treaty in August 1994, I took no position on this treaty. I made it clear that the administration would have to convince me that it was in the national security interests of the United States. The concerns I have expressed have been made over the past few weeks, by the President and several administration representatives, that if the United States does not ratify the Chemical Weapons Convention, that we would be aligning ourselves on the side of rogue nations, like Iraq and Libya, and against our allies.

Mr. President, in 1985 the Congress legislated the requirement for the United States to destroy its chemical stockpile, and has reaffirmed that decision every year since that time. The Senate agreed to take actions against Iraq for attacking its neighbor, and against Libya for terrorist actions which resulted in the death of American citizens. How can the President, the Secretary of State and other administration representatives like a decision by the Senate, in its performance of its constitutional duties to protect the national security interests of the United States, not to ratify this bilateral, intergovernmental, international treaty, to be aligning the United States with rogue nations? Regardless of the outcome of the CWC, April 24, 1997
the United States will continue to destroy its chemical stockpiles.

Last Sunday, the Secretary of Defense talked about his recent visit to South Korea and the discussions he had about the threat posed to U.S. forces by the chemical weapons in North Korea. He also mentioned General Tilelli's support for ratification of the CWC because it would reduce the chemical weapons threat faced by his troops in South Korea.

Mr. President, North Korea has not signed the CWC. As I read the treaty, none of the provisions will apply to nations that have not signed and ratified it. Only trade sanctions will apply to countries that have not signed it. United States ratification of the CWC will not minimize the North Korean chemical weapons threat which face our United States forces.

Mr. President, I cannot support the Chemical Weapons Convention. I appreciate the efforts made by the White House and the Administration in its support of the resolution of ratification that respond to concerns raised about the treaty made by Members of the Senate. However, I do not believe they go far enough. I remain concerned about the ability of the intelligence community to verify compliance with the treaty. Rogue nations which pose a military and terrorist threat to the United States have not signed the treaty, and most likely will not sign it. I also concern about the potential compromise of U.S. defensive capability through potential transfers of chemical defensive protective equipment, material or information under article X and article XI.

It is for these reasons that I cannot vote for this treaty.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas for 5 minutes.

Mrs. HUTCHISON. Mr. President, I respect the people who have come out against the treaty made by Members of the Senate. However, I do not believe they go far enough. I remain concerned about the ability of the intelligence community to verify compliance with the treaty. Rogue nations which pose a military and terrorist threat to the United States have not signed the treaty, and most likely will not sign it. I also concern about the potential compromise of U.S. defensive capability through potential transfers of chemical defensive protective equipment, material or information under article X and article XI.

It is for these reasons that I cannot vote for this treaty.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas for 1 minute.

Mr. HELMS. Mr. President, I wish to especially applaud this evening the Senator from South Carolina and the Senator from Arizona for their courageous opposition to this treaty. I also want to recognize the good and patriotic Americans and Senators who have differed on this treaty and have come down to different places on how they are going to vote.

But this treaty is not about who is committed to and who believes in the elimination of chemical warfare in this world. I believe all of us are equally committed to that goal. I rise in opposition to the CWC because I simply believe that it is a flawed treaty in which we claim to verify the unverifiable, we are ratifying the unenforceable, and we are trusting the untrustworthy. We are binding ourselves and our friends, while those that we should be most concerned about go unrestrained and un deterred. When addressing the ratification of a treaty, we in this body are executing one of our most solemn duties. When addressing our Nation's sovereignty and when addressing our Nation's sovereignty, our watch words should be "prudence" and "caution."

I believe that prudence and caution call out for a "no" vote. By ratifying this treaty, we spurn the sage advice of former Secretaries of Defense. And I close with the words of one of those Secretaries, Secretary Cheney, who said, "This accord is worse than no treaty at all."

So, while I recognize and applaud the sincerity and the passion with which the advocates of this treaty have spoken and how they articulated their position, I believe firmly that it is not in the interest of the sovereignty and the security of the United States. And I urge a "no" vote on the treaty ratification.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kansas for 1 minute.

Mr. BROWNBACK. Thank you very much. Mr. President, I appreciate that.

Mr. President, I join with other Senators noting how extremely difficult and important this decision is to vote for treaty ratification. I have taken it very seriously, as well as everybody else, I have read the entire treaty. I sat down and thought it through. I have talked with people. I have talked with President Bush, Bob Dole, Colin Powell, Casper Weinberger, James Schlesinger, Richard Perle, and my 9-year-old son, too, who I think has a stake in this as well.

I find it a terribly tough call to make on this treaty; a tough one to be able to decide what is in the best interest and ultimately what will get the fewest chemical weapons used in this world. That to me is the real litmus test issue. What is going to make the world safer is when we are going to have fewer chemical weapons used in the world.

I would like to bare to the body that I chair the Middle East Subcommittee of the Foreign Relations Committee. We held a hearing just last week on U.S. policy toward Iran. Our policy has failed to stop them from receiving weapons of mass destruction, particularly chemical weapons. The Iranians are receiving precursor chemical weapons from the Chinese.

May I have an additional minute and a half?

Mr. HELMS. Please. Yes.

Mr. BROWNBACK. I thank the chairman very much.

As I mentioned in our hearing last week, we were warned and pointed out that the Iranians have received chemical weapons, precursor chemical weapons, from the Chinese and from other sources.

I have reluctantly but clearly concluded that Iran would be more likely to obtain and use chemical weapons if we enter into this Chemical Weapons Convention with article X in place, which is currently how it sits; that they will be more likely to get and use chemical weapons, weapons of mass destruction, if Iran is our erstwhile terrorist enemy.

I spoke to Colin Powell. He noted that chemical weapons today are the
Weapons of choice, primarily for terrorists. These are primarily weapons used by terrorists. That certainly fits the Iranians.

So that is why I have, unfortunately, reluctantly yet clearly, decided that with this in mind, and with the likelihood of that being used by the Iranians, that this treaty would actually cause more chemical weapons to be used by people that we don't want; by terrorist regimes such as the Iranians. Therefore, I will have to vote against this treaty.

The PRESIDING OFFICER. The Chair recognizes the Senator from Missouri.

Mr. ASHCROFT. Mr. President, I thank you for this opportunity to make some comments in regard to this serious matter.

None of us has any affection for chemical weapons. Each of us hates chemical weapons. We would all like to see chemical weapons abolished. None of us would like to see chemical weapons used. We would all like to believe the statements of prominent experts that have been made about this treaty. We would all like to embrace the assurances of the President that, if something goes wrong, the treaty could be something easily walked away from.

But, in spite of all of our aspirations, in spite of all of our desires, and in spite of all our hopes, there is one reality which will exist; and that reality is the language of the treaty itself. Long after the assurances have stopped echoing through this Chamber, long after the President has left office, who is trying to assuage the fears of those who have misgivings about this treaty, the black and white letters of the treaty itself will be the controlling components of what happens. And the thing that gives me great pause is that the treaty will remain.

There are the requirements, particularly in articles 1 and 1 of the treaty, which require us to share technology, to share information, and to share, in particular, the defensive technology of chemical weaponry. There is an anomaly in chemical weaponry which is challenging. It is that when you provide the defensive technology for chemical weapons, you are providing one of the essential components of delivering chemical weapons. No one can deliver chemical weapons, unless it is launched by a missile, without having to have all the technologies of how to defend against the chemistry of the weapons.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ASHCROFT. I ask for 30 additional seconds.

If a rogue state wants to deliver chemical weapons, one of the things they need to do is to acquire the defensive technology to defend against them and to protect their own soldiers in delivering. These components are one of the substantial problems contained in articles 1 and XI. The risks far exceed the benefits.

As a result, I think it is ill-advised for us to accept assurances which would mislead us. We need to read the treaty, and the treaty is not one which merits our approval.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona for 1 minute.

Mr. KYL. Mr. President, let me begin by thanking Senator HELMS and Senator BIDEN, the floor managers of this treaty, for the work they did in bringing it before us.

Mr. President, I share the hope of the supporters of this treaty that it will help end the proliferation of chemical weapons. I believe, however, that history will record this treaty as one of the most well-intentioned yet least effective in our history. My hope is that we will not relax our efforts in other ways to reduce this threat, that we will not be lulled into a sense of security when it is ratified.

With the protections in the original resolution of ratification, I voted for the treaty. But the protections having been stricken, I must vote "no."

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. HELMS. Mr. President, Senators. I am glad to hear this. I ask for the years and nays on the final vote in the Senate. The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays were ordered.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, after the treaty. The treaty itself will be the controlling components of what happens. And the thing that gives me great pause is that the treaty will remain.

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(2) **Financial contributions.—**Notwithstanding any provision of the Convention, no funds may be drawn from the Treasury of the United States for any payment or assistance (including the transfer of in-kind items) under paragraph 16 of Article IV, paragraph 19 of Article V, paragraph 7 of Article VIII, paragraph 23 of Article IX, Article X, or any other provision of the Convention, without the prior statutory authorization and appropriation.

(3) **Establishment of an internal oversight office.**

(A) **Certification.—**Not later than 240 days after the deposit of the United States instrument of ratification, the President shall certify to the Congress that the internal oversight office has been expanded into an independent internal oversight office whose functions will be transferred to the Organization for the Prohibition of Chemical Weapons, subject to the conditions set forth in the establishment of the Organization. The independent internal oversight office shall be obligated to protect confidential information pursuant to the obligations of the Confidentiality Annex. The independent internal oversight office shall—

(i) undertake investigations and reports relating to all programs of the Organization;

(ii) investigate and make recommendations to the Congress, with respect to the conduct and supervision of the financial affairs of the United States and the affiliated or associated organizations of the Organization;

(iii) have direct and prompt access to any program and operation of the Organization.

(B) **Compliance with recommendations.—**The Organization shall ensure, to the extent practicable, compliance with the recommendations of the independent internal oversight office:

(iii) undertake performance evaluations annually to ensure the Organization has complied with the recommendations of the independent internal oversight office;

(iv) require access to all records relating to the programs and operations of the Organization;

(v) have direct and prompt access to any information that is to be provided to the Organization or the affiliated organizations of the Organization.

(C) **Compliance with recommendations.—**The Organization shall ensure, to the extent practicable, compliance with the recommendations of the independent internal oversight office:

(iii) undertake performance evaluations annually to ensure the Organization has complied with the recommendations of the independent internal oversight office;

(iv) require access to all records relating to the programs and operations of the Organization;

(v) have direct and prompt access to any information that is to be provided to the Organization or the affiliated organizations of the Organization.

(D) **Assessment of first year contributions.—**Notwithstanding the requirements of this paragraph, for the first year of the Organization’s operation, ending on April 29, 1998, the United States may make its contributions under paragraph 7 of Article VIII shall be withheld from disbursement, in addition to any other amounts required to be withheld from disbursement by any other provision of law. This provision does not impair or otherwise affect the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure pursuant to section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403(c)(5)); or

(ii) supersede or otherwise affect the provisions of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

(F) **Definitions.—**In this section:

(E) **Reports on unauthorized disclosures.—**The President shall submit a report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives identifying the procedures established for protecting intelligence sources and methods when intelligence information is provided pursuant to this section.

(G) **Delegation of duties.—**The President may delegate or assign the duties of the President under this section to any official of the United States.

(H) **Relationship to existing law.—**Nothing in this paragraph shall impair or otherwise affect the authority of the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure pursuant to section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403(c)(5)); or

(ii) supersede or otherwise affect the provisions of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

(I) **In general.—**The Director of Central Intelligence may waive the application of clause (i) if the Director of Central Intelligence certifies in writing to the appropriate committees of Congress that providing such information to the Organization or an organization affiliated with the Organization would result in no more than minimal damage to the national security interests of the United States and that all possible measures to protect such information have been taken except that such certification shall specify for each instance such information is provided, or for each such document provided, in the event that multiple waivers are issued during a single week and certification to the appropriate committees of Congress may be submitted, specifying each waiver issued during that week.

(II) **Delegation of duties.—**The Director of Central Intelligence may delegate any duty of the Director under this paragraph.

(B) **Periodic and special reports.—**

(i) **In general.—**The President shall report periodically, but not less frequently than annually, to the appropriate committees of Congress on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives on the types and volume of intelligence information provided to the Organization or affiliated organizations and the purposes for which it was provided during the period covered by the report.

(ii) **Exemption.—**For purposes of this subparapgraph, intelligence information provided to an organization or affiliated organization does not cover information that is provided only to, and for the use of, appropriately cleared United States Government personnel serving for or on behalf of the Organization or an affiliated organization.

(C) **Special reports.—**

(i) **Report on procedures.—**Accompanying the certification provided pursuant to subparagraph (A)(i), the President shall provide a detailed report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives identifying the procedures established for protecting intelligence sources and methods when intelligence information is provided pursuant to this section.

(ii) **Reports on unauthorized disclosures.—**The President shall submit a report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives within 15 days after it has become known to the United States Government regarding any unauthorized disclosure of intelligence information provided by the United States to the Organization.

(D) **Delegation of duties.—**The President may delegate or assign the duties of the President under this section to any official of the United States.

(E) **Reports on unauthorized disclosures.—**The President shall submit a report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives identifying the procedures established for protecting intelligence sources and methods when intelligence information is provided pursuant to this section.

(F) **Definitions.—**In this section:

(G) **Delegation of duties.—**The President may delegate or assign the duties of the President under this section to any official of the United States.
under the Convention and includes any organ of that Organization and any board or working group, such as the Scientific Advisory Board, that may be established by it and any official or employee thereof.

(iii) Organization affiliated with the Organization.—The terms "organization affiliated with the Organization" and "approved organizations" include the Provisional Technical Secretariat under the Convention and any laboratory certified by the Director-General of the Technical Secretariat and designated to perform analytical or other functions and any official or employee thereof.

(6) AMENDMENTS TO THE CONVENTION.—(A) DECLARATION.—The Senate declares that the collapse of the informal forum of states known as the "Australia Group," either through membership in membership of the United States' ratification of the Convention, or the substantial weakening of common Australia Group export controls and nonproliferation measures, or the United States' ratification of the Convention, would constitute a fundamental change in circumstances affecting the object and purpose of the Convention.

(B) CERTIFICATION REQUIREMENT.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that:

(i) nothing in the Convention obligates the United States to accept any modification, change, or weakening of its national export controls;

(ii) the United States understands that the maintenance of national restrictions on trade in chemical production technology is fully compatible with the provisions of the Convention, including Article XII(2), and solely within the sovereign jurisdiction of the United States;

(iii) the Convention preserves the right of State Parties, unilaterally or collectively, to maintain export controls, chemical and related chemical production technology for foreign policy or national security reasons, notwithstanding Article XII(2), and

(iv) each Australia Group member, at the highest diplomatic levels, has officially communicated to the United States Government its understanding and agreement that export control and nonproliferation measures which the Australia Group has undertaken are fully compatible with the provisions of the Convention, and its commitment to maintain in the future such export controls and nonproliferation measures against non-Australia Group members.

(C) ANNUAL CERTIFICATION.—(i) Any compliance issues the United States plans to raise at meetings of the Organization, in advance of such meetings;

(ii) any compliance issues raised at meetings of the Organization, within 30 days of such meeting;

(iii) any determination by the President that a State Party has failed to comply with its obligations under the Convention, within 30 days of such a determination.

(7) CONTINUING VITALITY OF THE AUSTRALIA GROUP AND NATIONAL EXPORT CONTROLS.—(A) DECLARATION.—The Senate declares that the negative security assurances extended to the United States only if all State Parties are in strict compliance with the terms of the Convention, as submitted to the Senate for its advice and consent to ratification; and such compliance being measured by performance and not by efforts, intentions, or commitments to comply; and

(B) BRIEFINGS ON COMPLIANCE.—Given its concern about the intelligence community's low level of confidence in its ability to monitor compliance with the Convention, the Senate expects the executive branch of the Government to offer regular briefings, not less than four times a year, to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives, on United States efforts in bilateral and multilateral diplomatic channels and forums to resolve compliance issues and shall include a complete description of:

(i) any compliance issues the United States plans to raise at meetings of the Organization, in advance of such meetings;

(ii) any compliance issues raised at meetings of the Organization, within 30 days of such meeting;

(iii) any determination by the President that a State Party has failed to comply with its obligations under the Convention, within 30 days of such a determination.

(8) NEGATIVE SECURITY ASSURANCES.—(A) REEVALUATION.—In forsaking the Convention the possession of a chemical weapons retaliatory capability, the Senate understands that the act of noncompliance;

(B) CLASSIFICATION.—Accordingly, 180 days after the deposit of the United States instrument of ratification, the President shall submit to the Committee on Foreign Relations and the Speaker of the House of Representatives a full and complete classified and unclassified report setting forth—

(i) a certification of those countries included in the Intelligence Community's Monitoring Strategy, as set forth by the Director of Central Intelligence's Arms Control Staff and the National Intelligence Council; or alternatively, a document setting forth the Intelligence priorities in the field of the proliferation of weapons of mass destruction (that) are determined to be in compliance with the Convention, on a country-by-country basis; or

(ii) for those countries not certified pursuant to clause (i), an identification and assessment of all compliance issues arising that are related to the agency or intelligence community to its obligations under the Convention;

(iii) the steps the United States has taken, either unilaterally or in conjunction with another State Party—

(I) to initiate challenge inspections of the noncompliant party with the objective of demonstrating to the international community the act of noncompliance; and

(II) to call attention publicly to the activity in question; and

(III) to seek on an urgent basis a meeting at the highest diplomatic level with the noncompliant party with the objective of bringing the noncompliant party into compliance;

(iv) a determination of the military significance of any broader measures that arise from any compliance issue identified pursuant to clause (ii); and

(9) PROTECTION OF ADVANCED BIO-TECHNOLOGY.—Prior to the deposit of the United States instrument of ratification, and after consultation with the Committee on Foreign Relations and the Speaker of the House of Representatives that the legitimate commercial export of aggressive biological weapons-related materials and technologies that are not being significantly harmed by the limitations of the Convention on access to, and production of, those chemicals and toxins listed in Schedule 1 of the Annex on Chemicals.
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(v) a detailed assessment of the responses of the noncompliant party in question to action undertaken by the United States described in clause (iii);

(D) ANNUAL REPORTS ON INTELLIGENCE.—For any country that was previously included in a report submitted under subparagraph (C), but which subsequently is not included in the Intelligence Community’s Monitoring Strategy (or successor document), such country shall continue to be reported in the report submitted under subparagraph (C) unless the country has been certified under subparagraph (C)(i) for each of the previous two years.

(E) SENSE OF THE SENATE.—Given its concern about the present state of chemical and biological defense readiness and training, it is the sense of the Senate that:

(i) the United States Armed Forces are inadequately equipped, organized, trained and exercised for chemical and biological defense against current and expected threats, and that too much reliance is placed on non-active duty forces for less conventional training and less modern equipment, for critical chemical and biological defense capabilities;

(ii) the United States Armed Forces need a greater emphasis of chemical and biological defense activities within the executive branch of Government and the United States Armed Forces;

(iii) the armed forces of key regional allies and likely coalition partners, as well as civilians necessary to support United States military operations, are inadequately prepared and equipped to carry out essential missions in chemically and biologically contaminated environments;

(iv) congressional direction contained in the United States Armed Forces for fiscal year 1998 and subsequent years should place increased emphasis on potential threats to forces deployed abroad and, in particular, on chemical and biological defenses by fiscal years defense programs, department, and agency.

(iv) an identification of the priorities of the executive branch of Government for the development of new resources relating to detection and monitoring capabilities with respect to chemical and biological weapons, including a description of the steps being taken and resources being devoted to strengthening United States monitoring capabilities;

(ii) enhanced efforts to locate and disrupt the transfer of novel agents, including any unclassified report regarding—

(i) the transfer of novel agents, including any unclassified report regarding—

(v) the United States Armed Forces should place increased emphasis on potential threats to forces deployed abroad and, in particular, on chemical and biological defenses by fiscal years defense programs, department, and agency.

(vi) it is essential for the United States and its key regional allies to preserve and further develop robust chemical and biological defenses;

(iv) the United States Armed Forces are inadequately equipped, organized, trained and exercised for chemical and biological defense against current and expected threats, and that too much reliance is placed on non-active duty forces for less conventional training and less modern equipment, for critical chemical and biological defense capabilities;

(v) the United States Armed Forces need a greater emphasis of chemical and biological defense activities within the executive branch of Government and the United States Armed Forces;

(iii) the Armed Forces of key regional allies and likely coalition partners, as well as civilians necessary to support United States military operations, are inadequately prepared and equipped to carry out essential missions in chemically and biologically contaminated environments;

(iv) congressional direction contained in the National Defense Authorization Act for Fiscal Year 1996 (title XIV of Public Law 104-201) should lead to enhanced domestic preparedness to protect against chemical and biological weapons threats;

(vii) it is essential for the United States Armed Forces to fight in a chemically and biologically contaminated environment;

(viii) the United States Armed Forces should place increased emphasis on potential threats to forces deployed abroad and, in particular, on chemical and biological defenses by fiscal years defense programs, department, and agency.

(B) ACTIONS TO STRENGTHEN DEFENSE CAPABILITIES.—The Secretary of Defense shall take those actions necessary to ensure that the United States Armed Forces are capable of carrying out required military missions in United States regional contingency plans, despite the threats of chemical or biological weapons. In particular, the Secretary of Defense shall ensure that the United States Armed Forces are effectively equipped, organized, trained, and exercised (including at the large unit and theater level) to conduct operations in a chemically or biologically contaminated environment that may result from United States military plans in regional conflicts, including—

(i) a detailed and specific identification of all United States national intelligence means, including national technical means and human intelligence, being marshaled together with the Convention’s verification provisions to monitor compliance with the Convention;

(ii) the identification of chemical weapons development, production, stockpiling, and use, within the meanings of those terms under the Convention, on a country-by-country basis;

(iii) the extent of trade in chemicals potentially relevant to chemical weapons programs, including all Australia Group chemicals and chemicals identified on the schedules of the Annex on Chemicals, on a country-by-country basis;

(iv) the identification of how United States national intelligence means, including national technical means and human intelligence, are being marshaled together with the Convention’s verification provisions to monitor compliance with the Convention; and

(v) the identification of chemical weapons development, production, stockpiling, and use, within the meanings of those terms under the Convention, on a country-by-country basis, including terrorist and paramilitary organizations.

(G) REPORTS ON RESOURCES MONITORING.—Each report required under subparagraph (F) shall include a full and complete classified and unclassified annex submitted solely to the Select Committee on Intelligence of the Senate and to the Permanent Select Committee on Intelligence of the House of Representatives regarding—

(i) a detailed and specific identification of all United States resources devoted to monitoring, including monitoring on all expenditures associated with the monitoring of the Convention; and

(ii) an identification of the priorities of the executive branch of Government for the development of new resources relating to detection and monitoring capabilities with respect to chemical or biological weapons.
(v) a detailed assessment of current and projected vaccine production capabilities and vaccine stocks, including progress in researching and developing a multivalent vaccine;

(vi) a detailed assessment of procedures and capabilities necessary to protect and decontaminate infrastructure to reinforce United States protection for and against an attack involving chemical weapons, including progress in developing a multichemical agent detector, unmanned aerial vehicles, and unmanned ground sensors;

(x) a description of progress made in developing and deploying layered theater missile defenses for deployed United States Armed Forces which will provide greater geographical protection against anticipated ballistic missile threats and will assist in mitigating chemical and biological contamination through higher altitude intercepts and detection of basing site intercepts;

(xi) an assessment of—

(I) the training and readiness of the United States Armed Forces to operate in a chemically and biologically contaminated environment; and

(II) actions taken to sustain training and readiness of training and readiness of training and reduction personnel who were carried out at national combat training centers;

(xii) a description of progress made in incorporating chemical and biological considerations into service and joint exercises as well as simulations, models, and war games, and the conclusions drawn from these efforts about the United States capability to carry out required missions, including missions with coalition partners, in military contingencies;

(xiii) a description of progress made in developing and implementing service and joint doctrine for combat and non-combat operations involving adversaries armed with chemical and biological weapons, including efforts to update the range of service and joint doctrine to better address the wide range of military activities, including deployment, reinforcement, and logistics operations in support of combat operations, and for the conduct of such operations in concert with coalition forces; and

(xiv) a detailed description of progress made in resolving issues relating to the protection of United States population centers from chemical and biological attack, including plans for installations, communities, and industry, and a description of progress made in developing and deploying effective missile defense and a national ballistic missile defense.

(12) PRIMACY OF THE UNITED STATES CONSTITUTION.—Nothing in the Convention requires or authorizes legislation, or other action, by the United States prohibited by the Constitution of the United States, as interpreted by the United States.

(A) IN GENERAL.—If the President determines that persuasive information exists that a State Party to the Convention is maintaining a chemical weapons production and that a State Party to the Convention is maintaining a chemical weapons production capabilities and vaccine stocks, including progress in researching and developing a multivalent vaccine;

(v) a detailed assessment of current and projected vaccine production capabilities and vaccine stocks, including progress in researching and developing a multivalent vaccine;

(vi) a detailed assessment of procedures and capabilities necessary to protect and decontaminate infrastructure to reinforce United States protection for and against an attack involving chemical weapons, including progress in developing a multichemical agent detector, unmanned aerial vehicles, and unmanned ground sensors;

(x) a description of progress made in developing and deploying layered theater missile defenses for deployed United States Armed Forces which will provide greater geographical protection against anticipated ballistic missile threats and will assist in mitigating chemical and biological contamination through higher altitude intercepts and detection of basing site intercepts;

(xi) an assessment of—

(I) the training and readiness of the United States Armed Forces to operate in a chemically and biologically contaminated environment; and

(II) actions taken to sustain training and readiness of training and readiness of training and reduction personnel who were carried out at national combat training centers;

(xii) a description of progress made in incorporating chemical and biological considerations into service and joint exercises as well as simulations, models, and war games, and the conclusions drawn from these efforts about the United States capability to carry out required missions, including missions with coalition partners, in military contingencies;

(xiii) a description of progress made in developing and implementing service and joint doctrine for combat and non-combat operations involving adversaries armed with chemical and biological weapons, including efforts to update the range of service and joint doctrine to better address the wide range of military activities, including deployment, reinforcement, and logistics operations in support of combat operations, and for the conduct of such operations in concert with coalition forces; and

(xiv) a detailed description of progress made in resolving issues relating to the protection of United States population centers from chemical and biological attack, including plans for installations, communities, and industry, and a description of progress made in developing and deploying effective missile defense and a national ballistic missile defense.

(12) PRIMACY OF THE UNITED STATES CONSTITUTION.—Nothing in the Convention requires or authorizes legislation, or other action, by the United States prohibited by the Constitution of the United States, as interpreted by the United States.

(A) IN GENERAL.—If the President determines that persuasive information exists that a State Party to the Convention is maintaining a chemical weapons production capabilities and vaccine stocks, including progress in researching and developing a multivalent vaccine;

(v) a detailed assessment of current and projected vaccine production capabilities and vaccine stocks, including progress in researching and developing a multivalent vaccine;

(vi) a detailed assessment of procedures and capabilities necessary to protect and decontaminate infrastructure to reinforce United States protection for and against an attack involving chemical weapons, including progress in developing a multichemical agent detector, unmanned aerial vehicles, and unmanned ground sensors;

(x) a description of progress made in developing and deploying layered theater missile defenses for deployed United States Armed Forces which will provide greater geographical protection against anticipated ballistic missile threats and will assist in mitigating chemical and biological contamination through higher altitude intercepts and detection of basing site intercepts;

(xi) an assessment of—

(I) the training and readiness of the United States Armed Forces to operate in a chemically and biologically contaminated environment; and

(II) actions taken to sustain training and readiness of training and readiness of training and reduction personnel who were carried out at national combat training centers;

(xii) a description of progress made in incorporating chemical and biological considerations into service and joint exercises as well as simulations, models, and war games, and the conclusions drawn from these efforts about the United States capability to carry out required missions, including missions with coalition partners, in military contingencies;

(xiii) a description of progress made in developing and implementing service and joint doctrine for combat and non-combat operations involving adversaries armed with chemical and biological weapons, including efforts to update the range of service and joint doctrine to better address the wide range of military activities, including deployment, reinforcement, and logistics operations in support of combat operations, and for the conduct of such operations in concert with coalition forces; and

(xiv) a detailed description of progress made in resolving issues relating to the protection of United States population centers from chemical and biological attack, including plans for installations, communities, and industry, and a description of progress made in developing and deploying effective missile defense and a national ballistic missile defense.

(12) PRIMACY OF THE UNITED STATES CONSTITUTION.—Nothing in the Convention requires or authorizes legislation, or other action, by the United States prohibited by the Constitution of the United States, as interpreted by the United States.

(A) IN GENERAL.—If the President determines that persuasive information exists that a State Party to the Convention is maintaining a chemical weapons production capabilities and vaccine stocks, including progress in researching and developing a multivalent vaccine;

(v) a detailed assessment of current and projected vaccine production capabilities and vaccine stocks, including progress in researching and developing a multivalent vaccine;

(vi) a detailed assessment of procedures and capabilities necessary to protect and decontaminate infrastructure to reinforce United States protection for and against an attack involving chemical weapons, including progress in developing a multichemical agent detector, unmanned aerial vehicles, and unmanned ground sensors;

(x) a description of progress made in developing and deploying layered theater missile defenses for deployed United States Armed Forces which will provide greater geographical protection against anticipated ballistic missile threats and will assist in mitigating chemical and biological contamination through higher altitude intercepts and detection of basing site intercepts;

(xi) an assessment of—

(I) the training and readiness of the United States Armed Forces to operate in a chemically and biologically contaminated environment; and

(II) actions taken to sustain training and readiness of training and readiness of training and reduction personnel who were carried out at national combat training centers;

(xii) a description of progress made in incorporating chemical and biological considerations into service and joint exercises as well as simulations, models, and war games, and the conclusions drawn from these efforts about the United States capability to carry out required missions, including missions with coalition partners, in military contingencies;

(xiii) a description of progress made in developing and implementing service and joint doctrine for combat and non-combat operations involving adversaries armed with chemical and biological weapons, including efforts to update the range of service and joint doctrine to better address the wide range of military activities, including deployment, reinforcement, and logistics operations in support of combat operations, and for the conduct of such operations in concert with coalition forces; and

(xiv) a detailed description of progress made in resolving issues relating to the protection of United States population centers from chemical and biological attack, including plans for installations, communities, and industry, and a description of progress made in developing and deploying effective missile defense and a national ballistic missile defense.

(12) PRIMACY OF THE UNITED STATES CONSTITUTION.—Nothing in the Convention requires or authorizes legislation, or other action, by the United States prohibited by the Constitution of the United States, as interpreted by the United States.

(A) IN GENERAL.—If the President determines that persuasive information exists that a State Party to the Convention is maintaining a chemical weapons production capabilities and vaccine stocks, including progress in researching and developing a multivalent vaccine;
satisfactory to the United States person who has suffered the damages due to the disclosure of United States confidential business information.

(ii) CONGRESSIONAL RECORD—In this paragraph:

(i) UNITED STATES CONFIDENTIAL BUSINESS INFORMATION—The term "United States confidential business information" means any trade secrets or commercial or financial information that is privileged and confidential, as described in section 662(b)(4) of title 5, United States Code.

(ii) UNITED STATES PERSON—The term "United States person" means any natural person or any corporation, partnership, or other juridical entity organized under the laws of the United States.

(iii) UNITED STATES—The term "United States" means the several States, the District of Columbia, and the commonwealths, territories, and possessions of the United States.

(17) CONSTITUTIONAL PREROGATIVES.—

(A) FINDINGS.—The Senate makes the following findings:

(I) Article II, section 2, clause 2 of the United States Constitution states that the President "shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur");

(II) At the turn of the century, Senator Henry Cabot Lodge took the position that the giving of advice and consent to the ratification of treaties constitutes a stage in negotiation on the treaties and that Senate amendments or reservations to a treaty are propositions "offered at a later stage of the negotiation by the other part of the American treaty making power in the only manner in which amendments or reservations may be offered");

(iii) The executive branch of Government has begun a practice of negotiating and submitting to the Senate treaties which include provisions that have the purported effect of—

(I) inhibiting the Senate from attaching reservations that the Senate considers necessary in the national interest; or

(II) preventing the Senate from exercising its constitutional duty to give its advice and consent to treaties, amendments, or reservations thereon prior to ratification of the treaties.

(iv) During the 85th Congress, and again during the 96th Congress by the Committee on Foreign Relations of the Senate made its position on this issue clear when stating that "the President's agreement to such a prohibition cannot constrain the Senate's constitutional right and obligation to give its advice and consent to a treaty subject to any reservation it might determine is required by the national interest":

(B) SENSE OF THE SENATE.—It is the sense of the Senate that—

(I) the advice and consent given by the Senate in the past to ratification of treaties containing provisions which prohibit amendments or reservations should not be construed as a precedent for such provisions in future treaties;

(ii) United States negotiators to a treaty should not agree to any provision that has the effect of inhibiting the Senate from attaching reservations or offering amendments to the treaty; and

(iii) the Senate should not consent in the future to any treaty or other provision of any treaty that would prohibit the Senate from giving its advice and consent to ratification of the treaty subject to amendment or reservations.

(18) LABORATORY SAMPLE ANALYSIS.—Prior to the deposit of the United States instrument of ratification, the President shall certify to the Senate that no sample collected in the United States pursuant to the Convention will be transferred for analysis to any facility outside the territory of the United States.

(19) EFFECT ON TERRORISM.—The Senate finds that—

(A) without regard to whether the Convention enters into force, terrorists will likely view chemical weapons as a means to gain greater publicity and instill widespread fear; and

(B) the March 1995 Tokyo subway attack by the Aum Shinrikyo would not have been prevented by the Convention.

(20) CONSTITUTIONAL SEPARATION OF POWERS.—

(A) FINDINGS.—The Senate makes the following findings:

(I) Article VIII(8) of the Convention allows a State Party to vote in the Organization if the State Party is in arrears in the payment of financial contributions and the Organization is satisfied that such nonpayment is due to conditions beyond the control of the State Party.

(ii) Article I, section 8 of the United States Constitution vests in Congress the exclusive authority to "pay the Debts" of the United States.

(iii) Financial contributions to the Organization may be appropriated only by Congress.

(B) SENSE OF SENATE.—It is therefore the sense of the Senate that—

(I) such contributions thus should be considered, for purposes of Article VIII(8) of the Convention, beyond the control of the executive branch of the United States Government; and

(ii) the United States vote in the Organization should not be denied in the event that Congress does not appropriate the full amount of funds assessed for the United States financial contribution to the Organization.

(21) ON-SITE INSPECTION AGENCY.—It is the sense of the Senate that the On-Site Inspection Agency of the Department of Defense should have the authority to provide assistance in advance of any inspection to any facility in the United States that is subject to a routine inspection under the Convention, and to any United States facility that is the object of a challenge inspection conducted pursuant to Article IX, if the consent of the owner or operator of the facility has first been obtained.

(22) LIMITATION ON THE SCALE OF ASSESSMENT.—

(A) LIMITATION ON ANNUAL ASSESSMENT.—Notwithstanding any provision of the Convention, and subject to the requirements of subparagraphs (B), (C), and (D), the United States shall pay as a total annual assessment, the sum of funds assessed pursuant to paragraph 7 of Article VIII not more than $25,000,000.

(B) RECALCULATION OF LIMITATIONS.—On January 1, 2000, and at each 3-year interval thereafter, the amount specified in subparagraph (A) is to be recalculated by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period.

(C) ADDITIONAL CONTRIBUTIONS REQUIRING CONGRESSIONAL APPROVAL.—

(I) AUTHORITY.—Notwithstanding subparagraph (A), the President may furnish additional contributions which are otherwise prohibited under subparagraph (A) if—

(i) the President determines and certifies in writing to the Speaker of the House of Representatives and to the President pro tempore of the Senate on Foreign Relations of the Senate that the failure to provide such contributions would result in the inability of the Organization to conduct challenge inspections pursuant to Article IX or would otherwise jeopardize the national security interests of the United States; and Congress enacts an act approving the certification of the President.

(ii) STATEMENT OF REASONS.—The President shall submit to Congress with a detailed statement setting forth the specific reasons therefor and the specific uses to which the additional contributions provided for in this section would be directed.

(D) ADDITIONAL CONTRIBUTIONS FOR VERIFICATION.—Notwithstanding subparagraph (A), for a period of not more than ten years, the President may furnish contributions to the Organization for the purposes of meetings of the costs of verification under Articles IV and V.

(23) ADDITIONS TO THE ANNEX ON CHEMICALS.—

(A) PRESIDENTIAL NOTIFICATION.—Not later than 10 days after the Director-General of the Technical Secretariat communicates information to all States Parties pursuant to Article XI(5)(a) of a proposal for the addition of a chemical or biological substance to a schedule of the Annex on Chemicals, the President shall notify the Committee on Foreign Relations of the Senate of the proposed addition.

(B) PRESIDENTIAL REPORT.—Not later than 60 days after the Director-General of the Technical Secretariat communicates information of such a proposal pursuant to Article XV(5)(a) or not later than 30 days after a positive recommendation by the Executive Council under Article XV(5)(c), whichever is sooner, the President shall submit to the Committee on Foreign Relations of the Senate a report, in classified and unclassified form, detailing the likely contributions to the proposed addition to a schedule of the Annex on Chemicals. Such report shall include—

(i) an assessment of the effect on United States industry of the proposed addition of the chemical or biological substance to a schedule of the Annex on Chemicals;

(ii) a description of the likely costs and benefits, if any, to United States national security of the proposed addition of such chemical or biological substance to a schedule of the Annex on Chemicals; and

(iii) a detailed assessment of the effect of the proposed addition on United States obligations under the Verification Article.

(C) PRESIDENTIAL CONSULTATION.—The President shall, after the submission of the notification required under subparagraph (A) or (B), notify the Executive Council under Article XV(5)(c), consult promptly with the Senate as to whether the United States should object to the proposed addition of a chemical or biological substance pursuant to Article XV(5)(c).

(24) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the Constitutionally based principles of treaty interpretation set forth in Condition (I) of the resolution of ratification of the INF Treaty. For purposes of this declaration, the term "INF Treaty" refers to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter Range Missiles, together with the related memorandum of understanding and protocols, approved by the Senate on May 27, 1988.

(25) FURTHER ARMS REDUCTIONS OBLIGATIONS.—The Senate declares its intention to enter into any international agreement, whether bilateral or multilateral, that would obligate the United States to reduce or limit the Armed Forces or armaments of a party to such agreement in a manner different from the manner in which the United States has used its treaty power as set forth in Article II, section 2, clause 2 of the Constitution.
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(26) RIOT CONTROL AGENTS.—
(A) PERMITTED USES.—Prior to the deposit of the United States instrument of ratification, the President shall certify to Congress that the United States is not restricted by the Convention in its use of riot control agents, including the use against combatants who are parties to a conflict, in any of the following cases:
(i) UNITED STATES NOT A PARTY.—The conduct of peacetime military operations within an area of ongoing armed conflict when the United States is not a party to the conflict (such as recent use of the United States Armed Forces in Somalia, Bosnia, and Rwanda).
(ii) CONSENSUAL PEACEKEEPING.—Consensual peacekeeping operations when the use of force is authorized by the receiving state, including operations pursuant to Chapter VI of the United Nations Charter.
(iii) CHAPTER VII PEACEKEEPING.—Peacekeeping operations when force is authorized by the Security Council under Chapter VII of the United Nations Charter.
(B) IMPLEMENTATION.—The President shall take no measure, and prescribe no rule or regulation that would alter or eliminate Executive Order 11850 of April 8, 1975.
(C) DEFINITION.—In this paragraph, the term "riot control agent" has the meaning given to the term in Article II(7) of the Convention.

(27) CHEMICAL WEAPONS DESTRUCTION.—Prior to the deposit of the United States instrument of ratification of the Convention, the President shall certify to Congress that all of the following conditions are satisfied:
(A) EXPLORATION OF ALTERNATIVE TECHNOLOGIES.—The President has agreed to explore alternative technologies for the destruction of chemical weapons in order to ensure that the United States has the safest, most effective and environmentally sound means for destroying its chemical weapons stockpile.
(B) CONVENTION EXTENDS DESTRUCTION DEADLINE.—The requirement in section 1412 of Public Law 99-145 (50 U.S.C. 1521) for completion of the destruction of the United States stockpile of chemical weapons by December 31, 2004, will be superseded upon the extension of the deadline for the destruction of chemical weapons.
(C) CONVENTION EXTENDS DESTRUCTION TECHNOLOGY.—The requirement in Article III(1)(a)(v) of the Convention for a declaration by each State Party, not later than 30 days after the date the Convention enters into force with respect to the United States by the deadline required by the Convention of April 29, 2007.
(D) USE A DIFFERENT DESTRUCTION TECHNOLOGY.—The requirement in Article III(1)(b)(v) of the Convention for a declaration by the United States Government designated by the United States pursuant to Article VII(4) of the Convention that the United States is not a party to the conflict.

SECTION 3. DEFINITIONS.

As used in this resolution:

(1) CHEMICAL WEAPONS CONVENTION OR CONVENTION.—The terms "Chemical Weapons Convention" and "Convention" mean the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, Opened for Signature by the United States at Paris on January 13, 1993, including the following protocols and memorandum of understanding, all such documents being collectively referred to as the "Chemical Weapons Convention" or the "Convention" (contained in Treaty Document 109-2):
(A) The Annex on Chemicals.
(B) The Annex on Implementation and Verification.
(C) The Annex on the Protection of Confidential Information.
(D) The Resolution Establishing the Preparatory Commission for the Organization for the Prohibition of Chemical Weapons.
(E) The Text Establishing a Preparatory Commission.
(2) ORGANIZATION.—The term "Organization" means the Organization for the Prohibition of Chemical Weapons established under the Convention.
(3) STATE PARTY.—The term "State Party" means any nation that is a party to the Convention.
(4) UNITED STATES INSTRUMENT OR RATIFICATION.—The term "United States instrument of ratification" means the instrument of ratification of the United States of the Convention.

Mr. HELMS. Mr. President, of course I am disappointed by today's vote on the treaty. But I find some solace in the fact that, thanks to our efforts, this treaty was much less harmful than it would have been. I am enormously proud of Senators KYL, INHOFE, and other Senators who stood with us despite enormous pressure against this treaty. I believe history will vindicate their efforts.

Make no mistake, this is a dangerous treaty. But it is a little less dangerous thanks to the efforts we made to amend it, and to deliver the truth to the American people. Last September, treaty proponents were pressing the Senate to vote on a treaty that had none of the key protections that some of us succeeded in inserting in this treaty. Had we not been a phalanx of common sense standing in their way, this treaty might well have been before the Senate for ratification today, and that would have been a disaster.

The treaty approved by the Senate tonight was toned down with 29 conditions, most of which were added in the last week of the debate. The Administration was until recently calling "killer amendments." Those include, among many others, conditions that limit the cost of the treaty to the American taxpayer, place safeguards on intelligence sharing, enhance our chemical defenses, and protect confidential business information.

Further, concessions on what I consider some of the most important issues—such as protecting the right of the United States to use tear gas, and requiring criminal search warrants for foreign inspectors—came only the final days before I agreed to allow the treaty to go to the Senate floor for a vote. If we had not managed to get the record down, I think the criticism and derision lobbed in our direction—none of those protections would be in the treaty today.

I hope I may be forgiven for taking some satisfaction in the knowledge that, because of what our critics called our stubbornness, our soldiers in the field will be a little safer, and the constitutional rights of American citizens will be a little better protected. Final judgment of our efforts will be left to future generations.

I do know this: those great Senators with whom I was honored to stand fought the good fight, we won some battles, and lost others. But we fought with honor, and integrity, and for the cause of right.

Mr. BIDEN addressed the Chair.

The VICE PRESIDENT. The Senator from Delaware.

Mr. BIDEN. I would like to thank the Vice President for being at the ready the whole day, and I would like to thank my colleagues for not making it necessary. I am glad they deprived the Vice President of the United States the opportunity to vote on the five conditions and on final passage. But I want to put on the record today that we are being very nice and solicitous about my efforts in this regard, the Vice President of the United States, who is in the Chair, played a critical role in pushing this, making sure that we kept it before the Nation, generating the interesting debate so his could not be left untouched, and I want to publicly thank him.

There is that old expression in politics that politics makes strange bedfellows. That is the distinction and the honor of having been the ranking member and/or chairman with the distinguished Senator from South Carolina, Senator THURMOND, and when I
got that assignment I think most of my colleagues looked at me and said, this is going to be an interesting time, BIDEN and THURMOND. We turned out to be very good friends. This is the first occasion after 25 years that I have had to work as closely as I have with my new chairman of the Foreign Relations Committee, on which I rank, and that is Senator HELMS. I want to publicly thank him. He kept his word at every stage of this long, arduous, and for me ultimately rewarding negotiation. I want to appreciate how much I appreciate it.

I conclude by saying, because I do not want to turn this into some litany of people to thank, what a pleasure it has been to work with and receive the guidance and encouragement from the Senator from Indiana [Mr. LUgar]. He has served this Nation well on this occasion, as well as Senator MCAIN. I hope I am not hurting their credentials in the Republican party by acknowledging how closely I worked with both of them. However, I think it should be noted that without the two of them weighing in on this treaty I not only doubt, I know we would not have passed this.

I conclude by saying I truly think this is a very important moment in the Senate, and I do think the vote we just cast will be within the next hour heard around the world. Had we voted the other way, it would have been a louder, more resounding sound than the one now. It will be heard around the world, and it will reaffirm American leadership.

I thank the Vice President for being here again and I am also thankful we did not have to have his vote, but I knew where it was if we had needed it. I yield the floor.

The VICE PRESIDENT. Under the previous order, the President will be immediately notified.

LEGISLATIVE SESSION

The VICE PRESIDENT. The Senate now returns to legislative session.

MORNING BUSINESS

Mr. ROBERTS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak up to 5 minutes each.

The PRESIDING OFFICER (Mr. Enzi). Without objection, it is so ordered.

COMMENDING KENTUCKY AIR NATIONAL GUARD

Mr. FORD. Mr. President, I just want to take a moment to extend my personal thanks to the Kentucky Air National Guard for a job well done. When the U.S. Air Force chose the Kentucky Derby Festival's annual Thunder Over Louisville celebration as one of the high points in a year-long celebration of the Air Force's 50th anniversary, the Kentucky Air National Guard proved to be the perfect hosts. They not only brought in all the aircraft, but coordinated all the different services.

Thunder Over Louisville has already gained a reputation as a one-of-a-kind air show and fireworks display. But I think everyone agreed that this year will be hard to top. The performances were truly spectacular, but much of the success is also due to the tremendous job the city, the Air Force, the Derby Festival, and Kentucky Air National Guard did to assure the event ran smoothly and safely.

Called "Wild Blue Thunder" in tribute to the Air Force's 50th Anniversary, it was the world's largest show of its kind in America, both for the fireworks display and for the air performances.

The fireworks were reported to be larger than the opening and closing of the Atlanta Olympics combined and of the Inaugural fireworks. The impressive show culminated in an 11,000 waterfall of fireworks off the Clark Memorial Bridge.

The television and radio commercials for Thunder Over Louisville use the tag line "you haven't seen anything until you've seen everything." The Air Force and other armed services certainly pulled out all the stops with air performances showcasing the "Thunderbirds USAF Aerobatic Team," the F-117A Stealth Fighter, the B-2 Stealth Bomber, the SR-71A Strategic Reconnaissance Plane, the B-1B Long Range Strategic Bomber, F-14 "Tomcat" jet fighter, the A-10 Warthog Tank Killer jet fighter, the F-15 "Eagle" jet fighter, the T-33 "Thunderbird," and Apache and Blackhawk helicopters.

The performances were not only a great source of entertainment, but also were a tremendous learning experience for spectators of all ages, especially about Kentucky's homegrown talent. Kentucky's 123rd already has an impressive list of accomplishments under their belt. And I've come to the Senate floor time and again to commend them on their exceptional work in places like Bosnia, Somalia, and Rwanda.

But as part of the Derby Festival's spectacular display, the 123rd got to show off for the hometown crowd. 650,000 Kentuckians saw first-hand the 123rd's skill and expertise with the C-130s, getting a better idea of how important this unit is to the overall operations of this nation's active duty Air Force. And that will make my job much easier this year if Pentagon officials start making moves to pull any of the 123rd's C-130s.

Mr. President, let me close by thanking the 123rd for their hard work and their hospitality. I know the true test of their abilities happens when they leave home. But it's nice to remind everyone at home how lucky we are to have such a talented, committed group of service people right here in Kentucky.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, April 23, 1997, the federal debt stood at $5,345,088,835,181.58 (Five trillion, three hundred forty-five billion, eighty-eight million, eight hundred thirty-five thousand, one hundred sixty-one dollars and fifty-eight cents).

One year ago, April 23, 1996, the federal debt stood at $5,106,372,000,000 (Five trillion, one hundred six billion, three hundred seventy-two million, eighty-six billion, one million dollars and fifty-eight cents).

Fifteen years ago, April 23, 1982, the federal debt stood at $1,058,022,000,000 (One trillion, fifty-eight billion, twenty-two million dollars and eighty-six cents) which reflects a debt increase of more than $4 trillion—$4,286,266,835,181.58 (Four trillion, two hundred sixty-six billion, eight hundred twenty-two million, one million dollars and fifty-eight cents) during the past 15 years.

PATRICK H. WINDHAM

Mr. LIEBERMAN. Mr. President, I would like to take a few moments to pay tribute to Patrick H. Windham, the long-serving Senior Democratic Professional Staff Member for the Subcommittee on Science, Technology, and Space. Pat is leaving Washington for California with his wife Arati Prabhakar and newborn baby Katie after nearly 20 years of service to the Senate, primarily on science and technology policy issues. For the many people here who knew or worked with Pat, including my staff and me, we will sorely miss him as a great source of institutional knowledge but most of all as a friend, a genuine and nice guy in a town not always known for its friendliness.

Originally from California, Pat completed his undergraduate work at Stanford, received a Masters in public policy from the University of California at Berkeley and first came to the Hill in 1982 as a Congressional Fellow to the Committee on Commerce, Science and Transportation. In 1982 Pat began his long association with Senator HOLINGS, joining his personal staff as a legislative assistant. He has held his present position, Senior Democratic Professional Staff Member for the Subcommittee on Commerce, Science and Transportation since 1984.

I met Pat through his many hours of work on the important issue of technology partnerships, especially those run through the Commerce Department such as the Advanced Technology Program. Pat, along with my able colleague Senator HOLINGS, has been a