

105TH CONGRESS
1ST SESSION

S. RES. 75

To advise and consent to the ratification of the Chemical Weapons
Convention, subject to certain conditions.

IN THE SENATE OF THE UNITED STATES

APRIL 17, 1997

Mr. HELMS submitted the following resolution; which was referred to the
Committee on Foreign Relations

APRIL 23, 1997

Committee discharged pursuant to the order of April 17, 1997

APRIL 24, 1997

Considered, amended, and agreed to

EXECUTIVE RESOLUTION

To advise and consent to the ratification of the Chemical
Weapons Convention, subject to certain conditions.

1 *Resolved (two-thirds of the Senators present concur-*
2 *ring therein),*

3 **SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO**
4 **CONDITIONS.**

5 The Senate advises and consents to the ratification
6 of the Chemical Weapons Convention (as defined in sec-

1 tion 3 of this resolution), subject to the conditions in sec-
2 tion 2.

3 **SEC. 2. CONDITIONS.**

4 The Senate's advice and consent to the ratification
5 of the Chemical Weapons Convention is subject to the fol-
6 lowing conditions, which shall be binding upon the Presi-
7 dent:

8 (1) EFFECT OF ARTICLE XXII.—Upon the de-
9 posit of the United States instrument of ratification,
10 the President shall certify to the Congress that the
11 United States has informed all other States Parties
12 to the Convention that the Senate reserves the right,
13 pursuant to the Constitution of the United States,
14 to give its advice and consent to ratification of the
15 Convention subject to reservations, notwithstanding
16 Article XXII of the Convention.

17 (2) FINANCIAL CONTRIBUTIONS.—Notwith-
18 standing any provision of the Convention, no funds
19 may be drawn from the Treasury of the United
20 States for any payment or assistance (including the
21 transfer of in-kind items) under paragraph 16 of Ar-
22 ticle IV, paragraph 19 of Article V, paragraph 7 of
23 Article VIII, paragraph 23 of Article IX, Article X,
24 or any other provision of the Convention, without
25 statutory authorization and appropriation.

1 (3) ESTABLISHMENT OF AN INTERNAL OVER-
2 SIGHT OFFICE.—

3 (A) CERTIFICATION.—Not later than 240
4 days after the deposit of the United States in-
5 strument of ratification, the President shall cer-
6 tify to the Congress that the current internal
7 audit office of the Preparatory Commission has
8 been expanded into an independent internal
9 oversight office whose functions will be trans-
10 ferred to the Organization for the Prohibition
11 of Chemical Weapons upon the establishment of
12 the Organization. The independent internal
13 oversight office shall be obligated to protect
14 confidential information pursuant to the obliga-
15 tions of the Confidentiality Annex. The inde-
16 pendent internal oversight office shall—

17 (i) make investigations and reports re-
18 lating to all programs of the Organization;

19 (ii) undertake both management and
20 financial audits, including—

21 (I) an annual assessment verify-
22 ing that classified and confidential in-
23 formation is stored and handled se-
24 curely pursuant to the general obliga-
25 tions set forth in Article VIII and in

1 accordance with all provisions of the
2 Annex on the Protection of Confiden-
3 tial Information; and

4 (II) an annual assessment of lab-
5 oratories established pursuant to
6 paragraph 55 of Part II of the Ver-
7 ification Annex to ensure that the Di-
8 rector General of the Technical Sec-
9 retariat is carrying out his functions
10 pursuant to paragraph 56 of Part II
11 of the Verification Annex;

12 (iii) undertake performance evalua-
13 tions annually to ensure the Organization
14 has complied to the extent practicable with
15 the recommendations of the independent
16 internal oversight office;

17 (iv) have access to all records relating
18 to the programs and operations of the Or-
19 ganization;

20 (v) have direct and prompt access to
21 any official of the Organization; and

22 (vi) be required to protect the identity
23 of, and prevent reprisals against, all com-
24 plainants.

1 (B) COMPLIANCE WITH RECOMMENDA-
2 TIONS.—The Organization shall ensure, to the
3 extent practicable, compliance with rec-
4 ommendations of the independent internal over-
5 sight office, and shall ensure that annual and
6 other relevant reports by the independent inter-
7 nal oversight office are made available to all
8 member states pursuant to the requirements es-
9 tablished in the Confidentiality Annex.

10 (C) WITHHOLDING A PORTION OF CON-
11 TRIBUTIONS.—Until a certification is made
12 under subparagraph (A), 50 percent of the
13 amount of United States contributions to the
14 regular budget of the Organization assessed
15 pursuant to paragraph 7 of Article VIII shall
16 be withheld from disbursement, in addition to
17 any other amounts required to be withheld from
18 disbursement by any other provision of law.

19 (D) ASSESSMENT OF FIRST YEAR CON-
20 TRIBUTIONS.—Notwithstanding the require-
21 ments of this paragraph, for the first year of
22 the Organization's operation, ending on April
23 29, 1998, the United States shall make its full
24 contribution to the regular budget of the Orga-

1 nization assessed pursuant to paragraph 7 of
2 Article VIII.

3 (E) DEFINITION.—For purposes of this
4 paragraph, the term “internal oversight office”
5 means an independent office (or other inde-
6 pendent entity) established by the Organization
7 to conduct and supervise objective audits, in-
8 spections, and investigations relating to the pro-
9 grams and operations of the Organization.

10 (4) COST SHARING ARRANGEMENTS.—

11 (A) ANNUAL REPORTS.—Prior to the de-
12 posit of the United States instrument of ratifi-
13 cation, and annually thereafter, the President
14 shall submit a report to Congress identifying all
15 cost-sharing arrangements with the Organiza-
16 tion.

17 (B) COST-SHARING ARRANGEMENT RE-
18 QUIRED.—The United States shall not under-
19 take any new research or development expendi-
20 tures for the primary purpose of refining or im-
21 proving the Organization’s regime for verifica-
22 tion of compliance under the Convention, in-
23 cluding the training of inspectors and the provi-
24 sion of detection equipment and on-site analysis
25 sampling and analysis techniques, or share the

1 articles, items, or services resulting from any
2 research and development undertaken pre-
3 viously, without first having concluded and sub-
4 mitted to the Congress a cost-sharing arrange-
5 ment with the Organization.

6 (C) CONSTRUCTION.—Nothing in this
7 paragraph may be construed as limiting or con-
8 stricting in any way the ability of the United
9 States to pursue unilaterally any project under-
10 taken solely to increase the capability of the
11 United States means for monitoring compliance
12 with the Convention.

13 (5) INTELLIGENCE SHARING AND SAFE-
14 GUARDS.—

15 (A) PROVISION OF INTELLIGENCE INFOR-
16 MATION TO THE ORGANIZATION.—

17 (i) IN GENERAL.—No United States
18 intelligence information may be provided to
19 the Organization or any organization affili-
20 ated with the Organization, or to any offi-
21 cial or employee thereof, unless the Presi-
22 dent certifies to the appropriate commit-
23 tees of Congress that the Director of
24 Central Intelligence, in consultation with
25 the Secretary of State and the Secretary of

1 Defense, has established and implemented
2 procedures, and has worked with the Orga-
3 nization or such other organization, as the
4 case may be, to ensure implementation of
5 procedures, for protecting from unauthor-
6 ized disclosure United States intelligence
7 sources and methods connected to such in-
8 formation. These procedures shall include
9 the requirement of—

10 (I) the offer and provision, if ac-
11 cepted, of advice and assistance to the
12 Organization or the affiliated organi-
13 zation in establishing and maintaining
14 the necessary measures to ensure that
15 inspectors and other staff members of
16 the Technical Secretariat meet the
17 highest standards of efficiency, com-
18 petence, and integrity, pursuant to
19 paragraph 1(b) of the Confidentiality
20 Annex, and in establishing and main-
21 taining a stringent regime governing
22 the handling of confidential informa-
23 tion by the Technical Secretariat, pur-
24 suant to paragraph 2 of the Confiden-
25 tiality Annex;

1 (II) a determination that any un-
2 authorized disclosure of United States
3 intelligence information to be provided
4 to the Organization or any organiza-
5 tion affiliated with the Organization,
6 or any official or employee thereof,
7 would result in no more than minimal
8 damage to United States national se-
9 curity, in light of the risks of the un-
10 authorized disclosure of such informa-
11 tion;

12 (III) sanitization of intelligence
13 information that is to be provided to
14 the Organization or the affiliated or-
15 ganization to remove all information
16 that could betray intelligence sources
17 and methods; and

18 (IV) interagency United States
19 intelligence community approval for
20 any release of intelligence information
21 to the Organization or the affiliated
22 organization, no matter how thor-
23 oughly it has been sanitized.

24 (ii) WAIVER AUTHORITY.—

1 (I) IN GENERAL.—The Director
2 of Central Intelligence may waive the
3 application of clause (i) if the Director
4 of Central Intelligence certifies in
5 writing to the appropriate committees
6 of Congress that providing such infor-
7 mation to the Organization or an or-
8 ganization affiliated with the Organi-
9 zation, or to any official or employee
10 thereof, is in the vital national secu-
11 rity interests of the United States and
12 that all possible measures to protect
13 such information have been taken, ex-
14 cept that such waiver must be made
15 for each instance such information is
16 provided, or for each such document
17 provided. In the event that multiple
18 waivers are issued within a single
19 week, a single certification to the ap-
20 propriate committees of Congress may
21 be submitted, specifying each waiver
22 issued during that week.

23 (II) DELEGATION OF DUTIES.—
24 The Director of Central Intelligence

1 may not delegate any duty of the Di-
2 rector under this paragraph.

3 (B) PERIODIC AND SPECIAL REPORTS.—

4 (i) IN GENERAL.—The President shall
5 report periodically, but not less frequently
6 than semiannually, to the Select Commit-
7 tee on Intelligence of the Senate and the
8 Permanent Select Committee on Intel-
9 ligence of the House of Representatives on
10 the types and volume of intelligence infor-
11 mation provided to the Organization or af-
12 filiated organizations and the purposes for
13 which it was provided during the period
14 covered by the report.

15 (ii) EXEMPTION.—For purposes of
16 this subparagraph, intelligence information
17 provided to the Organization or affiliated
18 organizations does not cover information
19 that is provided only to, and only for the
20 use of, appropriately cleared United States
21 Government personnel serving with the Or-
22 ganization or an affiliated organization.

23 (C) SPECIAL REPORTS.—

24 (i) REPORT ON PROCEDURES.—Ac-
25 companying the certification provided pur-

1 suant to subparagraph (A)(i), the Presi-
2 dent shall provide a detailed report to the
3 Select Committee on Intelligence of the
4 Senate and the Permanent Select Commit-
5 tee on Intelligence of the House of Rep-
6 resentatives identifying the procedures es-
7 tablished for protecting intelligence sources
8 and methods when intelligence information
9 is provided pursuant to this section.

10 (ii) REPORTS ON UNAUTHORIZED DIS-
11 CLOSURES.—The President shall submit a
12 report to the Select Committee on Intel-
13 ligence of the Senate and the Permanent
14 Select Committee on Intelligence of the
15 House of Representatives within 15 days
16 after it has become known to the United
17 States Government regarding any unau-
18 thorized disclosure of intelligence provided
19 by the United States to the Organization.

20 (D) DELEGATION OF DUTIES.—The Presi-
21 dent may not delegate or assign the duties of
22 the President under this section.

23 (E) RELATIONSHIP TO EXISTING LAW.—
24 Nothing in this paragraph may be construed
25 to—

1 (i) impair or otherwise affect the au-
2 thority of the Director of Central Intel-
3 ligence to protect intelligence sources and
4 methods from unauthorized disclosure pur-
5 suant to section 103(c)(5) of the National
6 Security Act of 1947 (50 U.S.C. 403-
7 3(c)(5)); or

8 (ii) supersede or otherwise affect the
9 provisions of title V of the National Secu-
10 rity Act of 1947 (50 U.S.C. 413 et seq.).

11 (F) DEFINITIONS.—In this section:

12 (i) APPROPRIATE COMMITTEES OF
13 CONGRESS.—The term “appropriate com-
14 mittees of Congress” means the Committee
15 on Foreign Relations and the Select Com-
16 mittee on Intelligence of the Senate and
17 the Committee on International Relations
18 and the Permanent Select Committee on
19 Intelligence of the House of Representa-
20 tives.

21 (ii) ORGANIZATION.—The term “Or-
22 ganization” means the Organization for
23 the Prohibition of Chemical Weapons es-
24 tablished under the Convention and in-
25 cludes any organ of that Organization and

1 any board or working group, such as the
2 Scientific Advisory Board, that may be es-
3 tablished by it, and any official or em-
4 ployee thereof.

5 (iii) ORGANIZATION AFFILIATED WITH
6 THE ORGANIZATION.—The terms “organi-
7 zation affiliated with the Organization”
8 and “affiliated organizations” include the
9 Provisional Technical Secretariat under the
10 Convention and any laboratory certified by
11 the Director-General of the Technical Sec-
12 retariat as designated to perform analytical
13 or other functions, and any official or em-
14 ployee thereof.

15 (6) AMENDMENTS TO THE CONVENTION.—

16 (A) VOTING REPRESENTATION OF THE
17 UNITED STATES.—A United States representa-
18 tive will be present at all Amendment Con-
19 ferences and will cast a vote, either affirmative
20 or negative, on all proposed amendments made
21 at such conferences.

22 (B) SUBMISSION OF AMENDMENTS AS
23 TREATIES.—The President shall submit to the
24 Senate for its advice and consent to ratification
25 under Article II, Section 2, Clause 2 of the

1 Constitution of the United States any amend-
2 ment to the Convention adopted by an Amend-
3 ment Conference.

4 (7) CONTINUING VITALITY OF THE AUSTRALIA
5 GROUP AND NATIONAL EXPORT CONTROLS.—

6 (A) DECLARATION.—The Senate declares
7 that the collapse of the informal forum of states
8 known as the “Australia Group,” either
9 through changes in membership or lack of com-
10 pliance with common export controls, or the
11 substantial weakening of common Australia
12 Group export controls and non-proliferation
13 measures in force on the date of United States
14 ratification of the Convention, would constitute
15 a fundamental change in circumstances affect-
16 ing the object and purpose of the Convention.

17 (B) CERTIFICATION REQUIREMENT.—Prior
18 to the deposit of the United States instrument
19 of ratification, the President shall certify to
20 Congress that—

21 (i) nothing in the Convention obligates
22 the United States to accept any modifica-
23 tion, change in scope, or weakening of its
24 national export controls;

1 (ii) the United States understands
2 that the maintenance of national restric-
3 tions on trade in chemicals and chemical
4 production technology is fully compatible
5 with the provisions of the Convention, in-
6 cluding Article XI(2), and solely within the
7 sovereign jurisdiction of the United States;

8 (iii) the Convention preserves the
9 right of State Parties, unilaterally or col-
10 lectively, to maintain or impose export con-
11 trols on chemicals and related chemical
12 production technology for foreign policy or
13 national security reasons, notwithstanding
14 Article XI(2); and

15 (iv) each Australia Group member, at
16 the highest diplomatic levels, has officially
17 communicated to the United States Gov-
18 ernment its understanding and agreement
19 that export control and nonproliferation
20 measures which the Australia Group has
21 undertaken are fully compatible with the
22 provisions of the Convention, including Ar-
23 ticle XI(2), and its commitment to main-
24 tain in the future such export controls and

1 nonproliferation measures against non-
2 Australia Group members.

3 (C) ANNUAL CERTIFICATION.—

4 (i) EFFECTIVENESS OF AUSTRALIA
5 GROUP.—The President shall certify to
6 Congress on an annual basis that—

7 (I) Australia Group members
8 continue to maintain an equally effec-
9 tive or more comprehensive control
10 over the export of toxic chemicals and
11 their precursors, dual-use processing
12 equipment, human, animal and plant
13 pathogens and toxins with potential
14 biological weapons application, and
15 dual-use biological equipment, as that
16 afforded by the Australia Group as of
17 the date of ratification of the Conven-
18 tion by the United States; and

19 (II) the Australia Group remains
20 a viable mechanism for limiting the
21 spread of chemical and biological
22 weapons-related materials and tech-
23 nology, and that the effectiveness of
24 the Australia Group has not been un-
25 dermined by changes in membership,

1 lack of compliance with common ex-
2 port controls and nonproliferation
3 measures, or the weakening of com-
4 mon controls and nonproliferation
5 measures, in force as of the date of
6 ratification of the Convention by the
7 United States.

8 (ii) CONSULTATION WITH SENATE RE-
9 QUIRED.—In the event that the President
10 is, at any time, unable to make the certifi-
11 cations described in clause (i), the Presi-
12 dent shall consult with the Senate for the
13 purposes of obtaining a resolution of sup-
14 port for continued adherence to the Con-
15 vention, notwithstanding the fundamental
16 change in circumstance.

17 (D) PERIODIC CONSULTATION WITH CON-
18 GRESSIONAL COMMITTEES.—The President
19 shall consult periodically, but not less fre-
20 quently than twice a year, with the Committee
21 on Foreign Relations of the Senate and the
22 Committee on International Relations of the
23 House of Representatives, on Australia Group
24 export control and nonproliferation measures. If
25 any Australia Group member adopts a position

1 at variance with the certifications and under-
2 standings provided under subparagraph (B), or
3 should seek to gain Australia Group acquies-
4 cence or approval for an interpretation that var-
5 ious provisions of the Convention require it to
6 remove chemical-weapons related export con-
7 trols against any State Party to the Conven-
8 tion, the President shall block any effort by
9 that Australia Group member to secure Aus-
10 tralia Group approval of such a position or in-
11 terpretation.

12 (E) DEFINITIONS.—In this paragraph:

13 (i) AUSTRALIA GROUP.—The term
14 “Australia Group” means the informal
15 forum of states, chaired by Australia,
16 whose goal is to discourage and impede
17 chemical and biological weapons prolifera-
18 tion by harmonizing national export con-
19 trols chemical weapons precursor chemi-
20 cals, biological weapons pathogens, and
21 dual-use production equipment, and
22 through other measures.

23 (ii) HIGHEST DIPLOMATIC LEVELS.—
24 The term “highest diplomatic levels”
25 means at the levels of senior officials with

1 the power to authoritatively represent their
2 governments, and does not include diplo-
3 matic representatives of those governments
4 to the United States.

5 (8) NEGATIVE SECURITY ASSURANCES.—

6 (A) REEVALUATION.—In forswearing
7 under the Convention the possession of a chemi-
8 cal weapons retaliatory capability, the Senate
9 understands that deterrence of attack by chemi-
10 cal weapons requires a reevaluation of the nega-
11 tive security assurances extended to non-nu-
12 clear-weapon states.

13 (B) CLASSIFIED REPORT.—Accordingly,
14 180 days after the deposit of the United States
15 instrument of ratification, the President shall
16 submit to the Congress a classified report set-
17 ting forth the findings of a detailed review of
18 United States policy on negative security assur-
19 ances, including a determination of the appro-
20 priate responses to the use of chemical or bio-
21 logical weapons against the Armed Forces of
22 the United States, United States citizens and
23 allies, and third parties.

24 (9) PROTECTION OF ADVANCED BIO-
25 TECHNOLOGY.—Prior to the deposit of the United

1 States instrument of ratification, and on January 1
2 of every year thereafter, the President shall certify
3 to the Committee on Foreign Relations and the
4 Speaker of the House of Representatives that the le-
5 gitimate commercial activities and interests of chem-
6 ical, biotechnology, and pharmaceutical firms in the
7 United States are not being significantly harmed by
8 the limitations of the Convention on access to, and
9 production of, those chemicals and toxins listed in
10 Schedule 1 of the Annex on Chemicals.

11 (10) MONITORING AND VERIFICATION OF COM-
12 PLIANCE.—

13 (A) DECLARATION.—The Senate declares
14 that—

15 (i) the Convention is in the interests
16 of the United States only if all State Par-
17 ties are in strict compliance with the terms
18 of the Convention as submitted to the Sen-
19 ate for its advice and consent to ratifica-
20 tion, such compliance being measured by
21 performance and not by efforts, intentions,
22 or commitments to comply; and

23 (ii) the Senate expects all State Par-
24 ties to be in strict compliance with their
25 obligations under the terms of the Conven-

1 tion, as submitted to the Senate for its ad-
2 vice and consent to ratification;

3 (B) BRIEFINGS ON COMPLIANCE.—Given
4 its concern about the intelligence community’s
5 low level of confidence in its ability to monitor
6 compliance with the Convention, the Senate ex-
7 pects the executive branch of the Government
8 to offer regular briefings, not less than four
9 times a year, to the Committee on Foreign Re-
10 lations of the Senate and the Committee on
11 International Relations of the House of Rep-
12 resentatives on compliance issues related to the
13 Convention. Such briefings shall include a de-
14 scription of all United States efforts in bilateral
15 and multilateral diplomatic channels and fo-
16 rums to resolve compliance issues and shall in-
17 clude a complete description of—

18 (i) any compliance issues the United
19 States plans to raise at meetings of the
20 Organization, in advance of such meetings;

21 (ii) any compliance issues raised at
22 meetings of the Organization, within 30
23 days of such meeting;

24 (iii) any determination by the Presi-
25 dent that a State Party is in noncompli-

1 ance with or is otherwise acting in a man-
2 ner inconsistent with the object or purpose
3 of the Convention, within 30 days of such
4 a determination.

5 (C) ANNUAL REPORTS ON COMPLIANCE.—

6 The President shall submit on January 1 of
7 each year to the Committee on Foreign Rela-
8 tions of the Senate and the Committee on
9 International Relations of the House of Rep-
10 resentatives a full and complete classified and
11 unclassified report setting forth—

12 (i) a certification of those countries
13 included in the Intelligence Community's
14 Monitoring Strategy, as set forth by the
15 Director of Central Intelligence's Arms
16 Control Staff and the National Intelligence
17 Council (or any successor document setting
18 forth intelligence priorities in the field of
19 the proliferation of weapons of mass de-
20 struction) that are determined to be in
21 compliance with the Convention, on a
22 country-by-country basis;

23 (ii) for those countries not certified
24 pursuant to clause (i), an identification
25 and assessment of all compliance issues

1 arising with regard to the adherence of the
2 country to its obligations under the Con-
3 vention;

4 (iii) the steps the United States has
5 taken, either unilaterally or in conjunction
6 with another State Party—

7 (I) to initiate challenge inspec-
8 tions of the noncompliant party with
9 the objective of demonstrating to the
10 international community the act of
11 noncompliance;

12 (II) to call attention publicly to
13 the activity in question; and

14 (III) to seek on an urgent basis
15 a meeting at the highest diplomatic
16 level with the noncompliant party with
17 the objective of bringing the non-
18 compliant party into compliance;

19 (iv) a determination of the military
20 significance and broader security risks
21 arising from any compliance issue identi-
22 fied pursuant to clause (ii); and

23 (v) a detailed assessment of the re-
24 sponses of the noncompliant party in ques-

1 tion to action undertaken by the United
2 States described in clause (iii).

3 (D) COUNTRIES PREVIOUSLY INCLUDED IN
4 COMPLIANCE REPORTS.—For any country that
5 was previously included in a report submitted
6 under subparagraph (C), but which subse-
7 quently is not included in the Intelligence Com-
8 munity's Monitoring Strategy (or successor doc-
9 ument), such country shall continue to be in-
10 cluded in the report submitted under subpara-
11 graph (C) unless the country has been certified
12 under subparagraph (C)(i) for each of the pre-
13 vious two years.

14 (E) FORM OF CERTIFICATIONS.—For those
15 countries that have been publicly and officially
16 identified by a representative of the intelligence
17 community as possessing or seeking to develop
18 chemical weapons, the certification described in
19 subparagraph (C)(i) shall be in unclassified
20 form.

21 (F) ANNUAL REPORTS ON INTEL-
22 LIGENCE.—On January 1, 1998, and annually
23 thereafter, the Director of Central Intelligence
24 shall submit to the Committees on Foreign Re-
25 lations, Armed Services, and the Select Com-

1 committee on Intelligence of the Senate and to the
2 Committees on International Relations, Na-
3 tional Security, and Permanent Select Commit-
4 tee on Intelligence of the House of Representa-
5 tives a full and complete classified and unclassi-
6 fied report regarding—

7 (i) the status of chemical weapons de-
8 velopment, production, stockpiling, and
9 use, within the meanings of those terms
10 under the Convention, on a country-by-
11 country basis;

12 (ii) any information made available to
13 the United States Government concerning
14 the development, production, acquisition,
15 stockpiling, retention, use, or direct or in-
16 direct transfer of novel agents, including
17 any unitary or binary chemical weapon
18 comprised of chemical components not
19 identified on the schedules of the Annex on
20 Chemicals, on a country-by-country basis;

21 (iii) the extent of trade in chemicals
22 potentially relevant to chemical weapons
23 programs, including all Australia Group
24 chemicals and chemicals identified on the

1 schedules of the Annex on Chemicals, on a
2 country-by-country basis;

3 (iv) the monitoring responsibilities,
4 practices, and strategies of the intelligence
5 community (as defined in section 3(4) of
6 the National Security Act of 1947) and a
7 determination of the level of confidence of
8 the intelligence community with respect to
9 each specific monitoring task undertaken,
10 including an assessment by the intelligence
11 community of the national aggregate data
12 provided by State Parties to the Organiza-
13 tion, on a country-by-country basis;

14 (v) an identification of how United
15 States national intelligence means, includ-
16 ing national technical means and human
17 intelligence, are being marshaled together
18 with the Convention's verification provi-
19 sions to monitor compliance with the Con-
20 vention; and

21 (vi) the identification of chemical
22 weapons development, production, stock-
23 piling, or use, within the meanings of those
24 terms under the Convention, by sub-

1 national groups, including terrorist and
2 paramilitary organizations.

3 (G) REPORTS ON RESOURCES FOR MON-
4 ITORING.—Each report required under subpara-
5 graph (F) shall include a full and complete clas-
6 sified annex submitted solely to the Select Com-
7 mittee on Intelligence of the Senate and to the
8 Permanent Select Committee on Intelligence of
9 the House of Representatives regarding—

10 (i) a detailed and specific identifica-
11 tion of all United States resources devoted
12 to monitoring the Convention, including in-
13 formation on all expenditures associated
14 with the monitoring of the Convention; and

15 (ii) an identification of the priorities
16 of the executive branch of Government for
17 the development of new resources relating
18 to detection and monitoring capabilities
19 with respect to chemical and biological
20 weapons, including a description of the
21 steps being taken and resources being de-
22 voted to strengthening United States mon-
23 itoring capabilities.

24 (11) ENHANCEMENTS TO ROBUST CHEMICAL
25 AND BIOLOGICAL DEFENSES.—

1 (A) SENSE OF THE SENATE.—It is the
2 sense of the Senate that—

3 (i) chemical and biological threats to
4 deployed United States Armed Forces will
5 continue to grow in regions of concern
6 around the world, and pose serious threats
7 to United States power projection and for-
8 ward deployment strategies;

9 (ii) chemical weapons or biological
10 weapons use is a potential element of fu-
11 ture conflicts in regions of concern;

12 (iii) it is essential for the United
13 States and key regional allies to preserve
14 and further develop robust chemical and
15 biological defenses;

16 (iv) the United States Armed Forces
17 are inadequately equipped, organized,
18 trained and exercised for chemical and bio-
19 logical defense against current and ex-
20 pected threats, and that too much reliance
21 is placed on non-active duty forces, which
22 receive less training and less modern
23 equipment, for critical chemical and bio-
24 logical defense capabilities;

1 (v) the lack of readiness stems from a
2 de-emphasis of chemical and biological de-
3 fenses within the executive branch of Gov-
4 ernment and the United States Armed
5 Forces;

6 (vi) the armed forces of key regional
7 allies and likely coalition partners, as well
8 as civilians necessary to support United
9 States military operations, are inad-
10 equately prepared and equipped to carry
11 out essential missions in chemically and
12 biologically contaminated environments;

13 (vii) congressional direction contained
14 in the Defense Against Weapons of Mass
15 Destruction Act of 1996 (title XIV of Pub-
16 lic Law 104–201) should lead to enhanced
17 domestic preparedness to protect against
18 chemical and biological weapons threats;
19 and

20 (viii) the United States Armed Forces
21 should place increased emphasis on poten-
22 tial threats to forces deployed abroad and,
23 in particular, make countering chemical
24 and biological weapons use an organizing
25 principle for United States defense strat-

1 egy and development of force structure,
2 doctrine, planning, training, and exercising
3 policies of the United States Armed
4 Forces.

5 (B) ACTIONS TO STRENGTHEN DEFENSE
6 CAPABILITIES.—The Secretary of Defense shall
7 take those actions necessary to ensure that the
8 United States Armed Forces are capable of car-
9 rying out required military missions in United
10 States regional contingency plans, despite the
11 threat or use of chemical or biological weapons.
12 In particular, the Secretary of Defense shall en-
13 sure that the United States Armed Forces are
14 effectively equipped, organized, trained, and ex-
15 ercised (including at the large unit and theater
16 level) to conduct operations in a chemically or
17 biologically contaminated environment that are
18 critical to the success of the United States mili-
19 tary plans in regional conflicts, including—

20 (i) deployment, logistics, and rein-
21 forcement operations at key ports and air-
22 fields;

23 (ii) sustained combat aircraft sortie
24 generation at critical regional airbases; and

1 (iii) ground force maneuvers of large
2 units and divisions.

3 (C) DISCUSSIONS WITH REGIONAL ALLIES
4 AND LIKELY COALITION PARTNERS.—

5 (i) IN GENERAL.—The Secretaries of
6 Defense and State shall, as a priority mat-
7 ter, initiate discussions with key regional
8 allies and likely regional coalition partners,
9 including those countries where the United
10 States currently deploys forces, where
11 United States forces would likely operate
12 during regional conflicts, or which would
13 provide civilians necessary to support Unit-
14 ed States military operations, to determine
15 what steps are necessary to ensure that al-
16 lied and coalition forces and other critical
17 civilians are adequately equipped and pre-
18 pared to operate in chemically and bio-
19 logically contaminated environments.

20 (ii) REPORTING REQUIREMENT.—Not
21 later than one year after deposit of the
22 United States instrument of ratification,
23 the Secretaries of Defense and State shall
24 submit a report to the Committees on For-
25 eign Relations and Armed Services of the

1 Senate and to the Speaker of the House of
2 Representatives on the result of these dis-
3 cussions, plans for future discussions,
4 measures agreed to improve the prepared-
5 ness of foreign forces and civilians, and
6 proposals for increased military assistance,
7 including through the Foreign Military
8 Sales and Foreign Military Financing
9 under the Arms Export Control Act and
10 the International Military Education and
11 Training programs pursuant to the For-
12 eign Assistance Act of 1961.

13 (D) UNITED STATES ARMY CHEMICAL
14 SCHOOL.—The Secretary of Defense shall take
15 those actions necessary to ensure that the Unit-
16 ed States Army Chemical School remains under
17 the oversight of a general officer of the United
18 States Army.

19 (E) SENSE OF THE SENATE.—Given its
20 concerns about the present state of chemical
21 and biological defense readiness and training, it
22 is the sense of the Senate that—

23 (i) in the transfer, consolidation, and
24 reorganization of the United States Army
25 Chemical School, the Army should not dis-

1 rupt or diminish the training and readiness
2 of the United States Armed Forces to fight
3 in a chemical-biological warfare environ-
4 ment;

5 (ii) the Army should continue to oper-
6 ate the Chemical Defense Training Facility
7 at Fort McClellan until such time as the
8 replacement training facility at Fort Leon-
9 ard Wood is functional.

10 (F) ANNUAL REPORTS ON CHEMICAL AND
11 BIOLOGICAL WEAPONS DEFENSE ACTIVITIES.—

12 On January 1, 1998, and annually thereafter,
13 the President shall submit a report to the Com-
14 mittees on Foreign Relations, Appropriations,
15 and Armed Services of the Senate and the
16 Committees on International Relations, Na-
17 tional Security, and Appropriations of the
18 House of Representatives, and the Speaker of
19 the House of Representatives on previous, cur-
20 rent, and planned chemical and biological weap-
21 ons defense activities. The report shall contain
22 for the previous fiscal year and for the next
23 three fiscal years—

24 (i) proposed solutions to each of the
25 deficiencies in chemical and biological war-

1 fare defenses identified in the March 1996
2 report of the General Accounting Office
3 entitled “Chemical and Biological Defense:
4 Emphasis Remains Insufficient to Resolve
5 Continuing Problems”, and steps being
6 taken pursuant to subparagraph (B) to en-
7 sure that the United States Armed Forces
8 are capable of conducting required military
9 operations to ensure the success of United
10 States regional contingency plans despite
11 the threat or use of chemical or biological
12 weapons;

13 (ii) identification of the priorities of
14 the executive branch of Government in the
15 development of both active and passive
16 chemical and biological defenses;

17 (iii) a detailed summary of all budget
18 activities associated with the research, de-
19 velopment, testing, and evaluation of chem-
20 ical and biological defense programs;

21 (iv) a detailed summary of expendi-
22 tures on research, development, testing,
23 and evaluation, and procurement of chemi-
24 cal and biological defenses by fiscal years
25 defense programs, department, and agency;

1 (v) a detailed assessment of current
2 and projected vaccine production capabili-
3 ties and vaccine stocks, including progress
4 in researching and developing a multi-
5 valent vaccine;

6 (vi) a detailed assessment of proce-
7 dures and capabilities necessary to protect
8 and decontaminate infrastructure to rein-
9 force United States power-projection
10 forces, including progress in developing a
11 nonaqueous chemical decontamination ca-
12 pability;

13 (vii) a description of progress made in
14 procuring light-weight personal protective
15 gear and steps being taken to ensure that
16 programmed procurement quantities are
17 sufficient to replace expiring battle-dress
18 overgarments and chemical protective over-
19 garments to maintain required wartime in-
20 ventory levels;

21 (viii) a description of progress made
22 in developing long-range standoff detection
23 and identification capabilities and other
24 battlefield surveillance capabilities for bio-
25 logical and chemical weapons, including

1 progress on developing a multi-chemical
2 agent detector, unmanned aerial vehicles,
3 and unmanned ground sensors;

4 (ix) a description of progress made in
5 developing and deploying layered theater
6 missile defenses for deployed United States
7 Armed Forces which will provide greater
8 geographic coverage against current and
9 expected ballistic missile threats and will
10 assist in mitigating chemical and biological
11 contamination through higher altitude
12 intercepts and boost-phase intercepts;

13 (x) an assessment of—

14 (I) the training and readiness of
15 the United States Armed Forces to
16 operate in a chemically or biologically
17 contaminated environment; and

18 (II) actions taken to sustain
19 training and readiness, including
20 training and readiness carried out at
21 national combat training centers;

22 (xi) a description of progress made in
23 incorporating chemical and biological con-
24 siderations into service and joint exercises
25 as well as simulations, models, and war

1 games, and the conclusions drawn from
2 these efforts about the United States capa-
3 bility to carry out required missions, in-
4 cluding missions with coalition partners, in
5 military contingencies;

6 (xii) a description of progress made in
7 developing and implementing service and
8 joint doctrine for combat and non-combat
9 operations involving adversaries armed
10 with chemical or biological weapons, in-
11 cluding efforts to update the range of serv-
12 ice and joint doctrine to better address the
13 wide range of military activities, including
14 deployment, reinforcement, and logistics
15 operations in support of combat oper-
16 ations, and for the conduct of such oper-
17 ations in concert with coalition forces; and

18 (xiii) a description of progress made
19 in resolving issues relating to the protec-
20 tion of United States population centers
21 from chemical and biological attack, in-
22 cluding plans for inoculation of popu-
23 lations, consequence management, and a
24 description of progress made in developing
25 and deploying effective cruise missile de-

1 fenses and a national ballistic missile de-
2 fense.

3 (12) PRIMACY OF THE UNITED STATES CON-
4 STITUTION.—Nothing in the Convention requires or
5 authorizes legislation, or other action, by the United
6 States prohibited by the Constitution of the United
7 States, as interpreted by the United States.

8 (13) NONCOMPLIANCE.—

9 (A) IN GENERAL.—If the President deter-
10 mines that persuasive information exists that a
11 State Party to the Convention is maintaining a
12 chemical weapons production or production mo-
13 bilization capability, is developing new chemical
14 agents, or is in violation of the Convention in
15 any other manner so as to threaten the national
16 security interests of the United States, then the
17 President shall—

18 (i) consult with the Senate, and
19 promptly submit to it, a report detailing
20 the effect of such actions;

21 (ii) seek on an urgent basis a chal-
22 lenge inspection of the facilities of the rel-
23 evant party in accordance with the provi-
24 sions of the Convention with the objective

1 of demonstrating to the international com-
2 munity the act of noncompliance;

3 (iii) seek, or encourage, on an urgent
4 basis a meeting at the highest diplomatic
5 level with the relevant party with the objec-
6 tive of bringing the noncompliant party
7 into compliance;

8 (iv) implement prohibitions and sanc-
9 tions against the relevant party as required
10 by law;

11 (v) if noncompliance has been deter-
12 mined, seek on an urgent basis within the
13 Security Council of the United Nations a
14 multilateral imposition of sanctions against
15 the noncompliant party for the purposes of
16 bringing the noncompliant party into com-
17 pliance; and

18 (vi) in the event that the noncompli-
19 ance continues for a period of longer than
20 one year after the date of the determina-
21 tion made pursuant to subparagraph (A),
22 promptly consult with the Senate for the
23 purposes of obtaining a resolution of sup-
24 port for continued adherence to the Con-
25 vention, notwithstanding the changed cir-

1 cumstances affecting the object and pur-
2 pose of the Convention.

3 (B) CONSTRUCTION.—Nothing in this sec-
4 tion may be construed to impair or otherwise
5 affect the authority of the Director of Central
6 Intelligence to protect intelligence sources and
7 methods from unauthorized disclosure pursuant
8 to section 103(c)(5) of the National Security
9 Act of 1947 (50 U.S.C. 403–3(c)(5)).

10 (C) PRESIDENTIAL DETERMINATIONS.—If
11 the President determines that an action other-
12 wise required under subparagraph (A) would
13 impair or otherwise affect the authority of the
14 Director of Central Intelligence to protect intel-
15 ligence sources and methods from unauthorized
16 disclosure, the President shall report that deter-
17 mination, together with a detailed written ex-
18 planation of the basis for that determination, to
19 the chairmen of the Senate Select Committee
20 on Intelligence and the House Permanent Se-
21 lect Committee on Intelligence not later than 15
22 days after making such determination.

23 (14) FINANCING RUSSIAN IMPLEMENTATION.—
24 The United States understands that, in order to be
25 assured of the Russian commitment to a reduction

1 in chemical weapons stockpiles, Russia must main-
2 tain a substantial stake in financing the implementa-
3 tion of both the 1990 Bilateral Destruction Agree-
4 ment and the Convention. The United States shall
5 not accept any effort by Russia to make deposit of
6 Russia's instrument of ratification of the Convention
7 contingent upon the United States providing finan-
8 cial guarantees to pay for implementation of com-
9 mitments by Russia under the 1990 Bilateral De-
10 struction Agreement or the Convention.

11 (15) ASSISTANCE UNDER ARTICLE X.—

12 (A) IN GENERAL.—Prior to the deposit of
13 the United States instrument of ratification, the
14 President shall certify to the Congress that the
15 United States shall not provide assistance
16 under paragraph 7(a) of Article X.

17 (B) COUNTRIES INELIGIBLE FOR CERTAIN
18 ASSISTANCE UNDER THE FOREIGN ASSISTANCE
19 ACT.—Prior to the deposit of the United States
20 instrument of ratification, the President shall
21 certify to the Congress that for any State Party
22 the government of which is not eligible for as-
23 sistance under chapter 2 of part II (relating to
24 military assistance) or chapter 4 of part II (re-

1 lating to economic support assistance) of the
2 Foreign Assistance Act of 1961—

3 (i) no assistance under paragraph
4 7(b) of Article X will be provided to the
5 State Party; and

6 (ii) no assistance under paragraph
7 7(c) of Article X other than medical anti-
8 dotes and treatment will be provided to the
9 State Party.

10 (16) PROTECTION OF CONFIDENTIAL INFORMA-
11 TION.—

12 (A) UNAUTHORIZED DISCLOSURE OF UNIT-
13 ED STATES BUSINESS INFORMATION.—When-
14 ever the President determines that persuasive
15 information is available indicating that—

16 (i) an officer or employee of the Orga-
17 nization has willfully published, divulged,
18 disclosed, or made known in any manner
19 or to any extent not authorized by the
20 Convention any United States confidential
21 business information coming to him in the
22 course of his employment or official duties
23 or by reason of any examination or inves-
24 tigation of any return, report, or record

1 made to or filed with the Organization, or
2 any officer or employee thereof, and

3 (ii) such practice or disclosure has re-
4 sulted in financial losses or damages to a
5 United States person,

6 the President shall, within 30 days after the re-
7 ceipt of such information by the executive
8 branch of Government, notify the Congress in
9 writing of such determination.

10 (B) WAIVER OF IMMUNITY FROM JURIS-
11 DICTION.—

12 (i) CERTIFICATION.—Not later than
13 270 days after notification of Congress
14 under subparagraph (A), the President
15 shall certify to Congress that the immunity
16 from jurisdiction of such foreign person
17 has been waived by the Director-General of
18 the Technical Secretariat.

19 (ii) WITHHOLDING OF PORTION OF
20 CONTRIBUTIONS.—If the President is un-
21 able to make the certification described
22 under clause (i), then 50 percent of the
23 amount of each annual United States con-
24 tribution to the regular budget of the Or-
25 ganization that is assessed pursuant to

1 paragraph 7 of Article VIII shall be with-
2 held from disbursement, in addition to any
3 other amounts required to be withheld
4 from disbursement by any other provision
5 of law, until—

6 (I) the President makes such cer-
7 tification, or

8 (II) the President certifies to
9 Congress that the situation has been
10 resolved in a manner satisfactory to
11 the United States person who has suf-
12 fered the damages due to the disclo-
13 sure of United States confidential
14 business information.

15 (C) BREACHES OF CONFIDENTIALITY.—

16 (i) CERTIFICATION.—In the case of
17 any breach of confidentiality involving both
18 a State Party and the Organization, in-
19 cluding any officer or employee thereof, the
20 President shall, within 270 days after pro-
21 viding written notification to Congress pur-
22 suant to subparagraph (A), certify to Con-
23 gress that the Commission described under
24 paragraph 23 of the Confidentiality Annex

1 has been established to consider the
2 breach.

3 (ii) WITHHOLDING OF PORTION OF
4 CONTRIBUTIONS.—If the President is un-
5 able to make the certification described
6 under clause (i), then 50 percent of the
7 amount of each annual United States con-
8 tribution to the regular budget of the Or-
9 ganization that is assessed pursuant to
10 paragraph 7 of Article VIII shall be with-
11 held from disbursement, in addition to any
12 other amounts required to be withheld
13 from disbursement by any other provision
14 of law, until—

15 (I) the President makes such cer-
16 tification, or

17 (II) the President certifies to
18 Congress that the situation has been
19 resolved in a manner satisfactory to
20 the United States person who has suf-
21 fered the damages due to the disclo-
22 sure of United States confidential
23 business information.

24 (D) DEFINITIONS.—In this paragraph:

1 (i) UNITED STATES CONFIDENTIAL
2 BUSINESS INFORMATION.—The term
3 “United States confidential business infor-
4 mation” means any trade secrets or com-
5 mercial or financial information that is
6 privileged and confidential, as described in
7 section 552(b)(4) of title 5, United States
8 Code, and that is obtained—

9 (I) from a United States person;

10 and

11 (II) through the United States
12 National Authority or the conduct of
13 an inspection on United States terri-
14 tory under the Convention.

15 (ii) UNITED STATES PERSON.—The
16 term “United States person” means any
17 natural person or any corporation, partner-
18 ship, or other juridical entity organized
19 under the laws of the United States.

20 (iii) UNITED STATES.—The term
21 “United States” means the several States,
22 the District of Columbia, and the common-
23 wealths, territories, and possessions of the
24 United States.

25 (17) CONSTITUTIONAL PREROGATIVES.—

1 (A) FINDINGS.—The Senate makes the fol-
2 lowing findings:

3 (i) Article II, Section 2, Clause 2 of
4 the United States Constitution states that
5 the President “shall have Power, by and
6 with the Advice and Consent of the Senate,
7 to make Treaties, provided two-thirds of
8 the Senators present concur”.

9 (ii) At the turn of the century, Sen-
10 ator Henry Cabot Lodge took the position
11 that the giving of advice and consent to
12 the ratification of treaties constitutes a
13 stage in negotiation on the treaties and
14 that Senate amendments or reservations to
15 a treaty are propositions “offered at a
16 later stage of the negotiation by the other
17 part of the American treaty making power
18 in the only manner in which they could
19 then be offered”.

20 (iii) The executive branch of Govern-
21 ment has begun a practice of negotiating
22 and submitting to the Senate treaties
23 which include provisions that have the pur-
24 ported effect of—

1 (I) inhibiting the Senate from at-
2 taching reservations that the Senate
3 considers necessary in the national in-
4 terest; or

5 (II) preventing the Senate from
6 exercising its constitutional duty to
7 give its advice and consent to treaty
8 commitments before ratification of the
9 treaties.

10 (iv) During the 85th Congress, and
11 again during the 102d Congress, the Com-
12 mittee on Foreign Relations of the Senate
13 made its position on this issue clear when
14 stating that “the President’s agreement to
15 such a prohibition cannot constrain the
16 Senate’s constitutional right and obligation
17 to give its advice and consent to a treaty
18 subject to any reservation it might deter-
19 mine is required by the national interest”.

20 (B) SENSE OF THE SENATE.—It is the
21 sense of the Senate that—

22 (i) the advice and consent given by
23 the Senate in the past to ratification of
24 treaties containing provisions which pro-
25 hibit amendments or reservations should

1 not be construed as a precedent for such
2 provisions in future treaties;

3 (ii) United States negotiators to a
4 treaty should not agree to any provision
5 that has the effect of inhibiting the Senate
6 from attaching reservations or offering
7 amendments to the treaty; and

8 (iii) the Senate should not consent in
9 the future to any article or other provision
10 of any treaty that would prohibit the Sen-
11 ate from giving its advice and consent to
12 ratification of the treaty subject to amend-
13 ment or reservation.

14 (18) LABORATORY SAMPLE ANALYSIS.—Prior to
15 the deposit of the United States instrument of ratifi-
16 cation, the President shall certify to the Senate that
17 no sample collected in the United States pursuant to
18 the Convention will be transferred for analysis to
19 any laboratory outside the territory of the United
20 States.

21 (19) EFFECT ON TERRORISM.—The Senate
22 finds that—

23 (A) without regard to whether the Conven-
24 tion enters into force, terrorists will likely view

1 chemical weapons as a means to gain greater
2 publicity and instill widespread fear; and

3 (B) the March 1995 Tokyo subway attack
4 by the Aum Shinrikyo would not have been pre-
5 vented by the Convention.

6 (20) CONSTITUTIONAL SEPARATION OF POW-
7 ERS.—

8 (A) FINDINGS.—The Senate makes the fol-
9 lowing findings:

10 (i) Article VIII(8) of the Convention
11 allows a State Party to vote in the Organi-
12 zation if the State Party is in arrears in
13 the payment of financial contributions and
14 the Organization is satisfied that such non-
15 payment is due to conditions beyond the
16 control of the State Party.

17 (ii) Article I, Section 8 of the United
18 States Constitution vests in Congress the
19 exclusive authority to “pay the Debts” of
20 the United States.

21 (iii) Financial contributions to the Or-
22 ganization may be appropriated only by
23 Congress.

24 (B) SENSE OF SENATE.—It is therefore
25 the sense of the Senate that—

1 (i) such contributions thus should be
2 considered, for purposes of Article VIII(8)
3 of the Convention, beyond the control of
4 the executive branch of the United States
5 Government; and

6 (ii) the United States vote in the Or-
7 ganization should not be denied in the
8 event that Congress does not appropriate
9 the full amount of funds assessed for the
10 United States financial contribution to the
11 Organization.

12 (21) ON-SITE INSPECTION AGENCY.—It is the
13 sense of the Senate that the On-Site Inspection
14 Agency of the Department of Defense should have
15 the authority to provide assistance in advance of any
16 inspection to any facility in the United States that
17 is subject to a routine inspection under the Conven-
18 tion, or to any facility in the United States that is
19 the object of a challenge inspection conducted pursu-
20 ant to Article IX, if the consent of the owner or op-
21 erator of the facility has first been obtained.

22 (22) LIMITATION ON THE SCALE OF ASSESS-
23 MENT.—

24 (A) LIMITATION ON ANNUAL ASSESS-
25 MENT.—Notwithstanding any provision of the

1 Convention, and subject to the requirements of
2 subparagraphs (B), (C), and (D), the United
3 States shall pay as a total annual assessment of
4 the costs of the Organization pursuant to para-
5 graph 7 of Article VIII not more than
6 \$25,000,000.

7 (B) RECALCULATION OF LIMITATION.—On
8 January 1, 2000, and at each 3-year interval
9 thereafter, the amount specified in subpara-
10 graph (A) is to be recalculated by the Adminis-
11 trator of General Services, in consultation with
12 the Secretary of State, to reflect changes in the
13 consumer price index for the immediately pre-
14 ceding 3-year period.

15 (C) ADDITIONAL CONTRIBUTIONS REQUIR-
16 ING CONGRESSIONAL APPROVAL.—

17 (i) AUTHORITY.—Notwithstanding
18 subparagraph (A), the President may fur-
19 nish additional contributions which would
20 otherwise be prohibited under subpara-
21 graph (A) if—

22 (I) the President determines and
23 certifies in writing to the Speaker of
24 the House of Representatives and the
25 Committee on Foreign Relations of

1 the Senate that the failure to provide
2 such contributions would result in the
3 inability of the Organization to con-
4 duct challenge inspections pursuant to
5 Article IX or would otherwise jeopard-
6 ize the national security interests of
7 the United States; and

8 (II) Congress enacts a joint reso-
9 lution approving the certification of
10 the President.

11 (ii) STATEMENT OF REASONS.—The
12 President shall transmit with such certifi-
13 cation a detailed statement setting forth
14 the specific reasons therefor and the spe-
15 cific uses to which the additional contribu-
16 tions provided to the Organization would
17 be applied.

18 (D) ADDITIONAL CONTRIBUTIONS FOR
19 VERIFICATION.—Notwithstanding subparagraph
20 (A), for a period of not more than ten years,
21 the President may furnish additional contribu-
22 tions to the Organization for the purposes of
23 meeting the costs of verification under Articles
24 IV and V.

1 (23) ADDITIONS TO THE ANNEX ON CHEMI-
2 CALS.—

3 (A) PRESIDENTIAL NOTIFICATION.—Not
4 later than 10 days after the Director-General of
5 the Technical Secretariat communicates infor-
6 mation to all States Parties pursuant to Article
7 XV(5)(a) of a proposal for the addition of a
8 chemical or biological substance to a schedule of
9 the Annex on Chemicals, the President shall no-
10 tify the Committee on Foreign Relations of the
11 Senate of the proposed addition.

12 (B) PRESIDENTIAL REPORT.—Not later
13 than 60 days after the Director-General of the
14 Technical Secretariat communicates informa-
15 tion of such a proposal pursuant to Article
16 XV(5)(a) or not later than 30 days after a posi-
17 tive recommendation by the Executive Council
18 pursuant to Article XV(5)(c), whichever is
19 sooner, the President shall submit to the Com-
20 mittee on Foreign Relations of the Senate a re-
21 port, in classified and unclassified form, detail-
22 ing the likely impact of the proposed addition to
23 a schedule of the Annex on Chemicals. Such re-
24 port shall include—

1 (i) an assessment of the likely impact
2 on United States industry of the proposed
3 addition of the chemical or biological sub-
4 stance to a schedule of the Annex on
5 Chemicals;

6 (ii) a description of the likely costs
7 and benefits, if any, to United States na-
8 tional security of the proposed addition of
9 such chemical or biological substance to a
10 schedule of the Annex on Chemicals; and

11 (iii) a detailed assessment of the ef-
12 fect of the proposed addition on United
13 States obligations under the Verification
14 Annex.

15 (C) PRESIDENTIAL CONSULTATION.—The
16 President shall, after the submission of the no-
17 tification required under subparagraph (A) and
18 prior to any action on the proposal by the Exec-
19 utive Council under Article XV(5)(c), consult
20 promptly with the Senate as to whether the
21 United States should object to the proposed ad-
22 dition of a chemical or biological substance pur-
23 suant to Article XV(5)(c).

24 (24) TREATY INTERPRETATION.—The Senate
25 affirms the applicability to all treaties of the Con-

1 stitutionally based principles of treaty interpretation
2 set forth in Condition (1) of the resolution of ratifi-
3 cation with respect to the INF Treaty. For purposes
4 of this declaration, the term “INF Treaty” refers to
5 the Treaty Between the United States of America
6 and the Union of Soviet Socialist Republics on the
7 Elimination of Their Intermediate-Range and Short-
8 er Range Missiles, together with the related memo-
9 randum of understanding and protocols, approved by
10 the Senate on May 27, 1988.

11 (25) FURTHER ARMS REDUCTIONS OBLIGA-
12 TIONS.—The Senate declares its intention to con-
13 sider for approval international agreements that
14 would obligate the United States to reduce or limit
15 the Armed Forces or armaments of the United
16 States in a militarily significant manner only pursu-
17 ant to the treaty power as set forth in Article II,
18 section 2, clause 2 of the Constitution.

19 (26) RIOT CONTROL AGENTS.—

20 (A) PERMITTED USES.—Prior to the de-
21 posit of the United States instrument of ratifi-
22 cation, the President shall certify to Congress
23 that the United States is not restricted by the
24 Convention in its use of riot control agents, in-
25 cluding the use against combatants who are

1 parties to a conflict, in any of the following
2 cases:

3 (i) UNITED STATES NOT A PARTY.—

4 The conduct of peacetime military oper-
5 ations within an area of ongoing armed
6 conflict when the United States is not a
7 party to the conflict (such as recent use of
8 the United States Armed Forces in Soma-
9 lia, Bosnia, and Rwanda).

10 (ii) CONSENSUAL PEACEKEEPING.—

11 Consensual peacekeeping operations when
12 the use of force is authorized by the receiv-
13 ing state, including operations pursuant to
14 Chapter VI of the United Nations Charter.

15 (iii) CHAPTER VII PEACEKEEPING.—

16 Peacekeeping operations when force is au-
17 thorized by the Security Council under
18 Chapter VII of the United Nations Char-
19 ter.

20 (B) IMPLEMENTATION.—The President
21 shall take no measure, and prescribe no rule or
22 regulation, which would alter or eliminate Exec-
23 utive Order 11850 of April 8, 1975.

24 (C) DEFINITION.—In this paragraph, the
25 term “riot control agent” has the meaning

1 given the term in Article II(7) of the Conven-
2 tion.

3 (27) CHEMICAL WEAPONS DESTRUCTION.—

4 Prior to the deposit of the United States instrument
5 of ratification of the Convention, the President shall
6 certify to the Congress that all of the following con-
7 ditions are satisfied:

8 (A) EXPLORATION OF ALTERNATIVE
9 TECHNOLOGIES.—The President has
10 agreed to explore alternative technologies
11 for the destruction of the United States
12 stockpile of chemical weapons in order to
13 ensure that the United States has the
14 safest, most effective and environmentally
15 sound plans and programs for meeting its
16 obligations under the Convention for the
17 destruction of chemical weapons.

18 (B) CONVENTION EXTENDS DESTRUC-
19 TION DEADLINE.—The requirement in sec-
20 tion 1412 of Public Law 99-145 (50
21 U.S.C. 1521) for completion of the de-
22 struction of the United States stockpile of
23 chemical weapons by December 31, 2004,
24 will be superseded upon the date the Con-
25 vention enters into force with respect to

1 the United States by the deadline required
2 by the Convention of April 29, 2007.

3 (C) AUTHORITY TO EMPLOY A DIFFERENT
4 DESTRUCTION TECHNOLOGY.—

5 The requirement in Article III(1)(a)(v) of
6 the Convention for a declaration by each
7 State Party not later than 30 days after
8 the date the Convention enters into force
9 with respect to that Party on general plans
10 of the State Party for destruction of its
11 chemical weapons does not preclude in any
12 way the United States from deciding in the
13 future to employ a technology for the de-
14 struction of chemical weapons different
15 than that declared under that Article.

16 (D) PROCEDURES FOR EXTENSION OF
17 DEADLINE.—The President will consult with
18 Congress on whether to submit a request to the
19 Executive Council of the Organization for an
20 extension of the deadline for the destruction of
21 chemical weapons under the Convention, as pro-
22 vided under part IV(A) of the Annex on Imple-
23 mentation and Verification to the Convention,
24 if, as a result of the program of alternative
25 technologies for the destruction of chemical mu-

1 nitions carried out under section 8065 of the
2 Department of Defense Appropriations Act,
3 1997 (as contained in Public Law 104–208),
4 the President determines that alternatives to
5 the incineration of chemical weapons are avail-
6 able that are safer and more environmentally
7 sound but whose use would preclude the United
8 States from meeting the deadlines of the Con-
9 vention.

10 (28) CONSTITUTIONAL PROTECTION AGAINST
11 UNREASONABLE SEARCH AND SEIZURE.—

12 (A) IN GENERAL.—In order to protect
13 United States citizens against unreasonable
14 searches and seizures, prior to the deposit of
15 the United States instrument of ratification, the
16 President shall certify to Congress that—

17 (i) for any challenge inspection con-
18 ducted on the territory of the United
19 States pursuant to Article IX, where con-
20 sent has been withheld, the United States
21 National Authority will first obtain a
22 criminal search warrant based upon prob-
23 able cause, supported by oath or affirma-
24 tion, and describing with particularity the

1 place to be searched and the persons or
2 things to be seized; and

3 (ii) for any routine inspection of a de-
4 clared facility under the Convention that is
5 conducted on the territory of the United
6 States, where consent has been withheld,
7 the United States National Authority first
8 will obtain an administrative search war-
9 rant from a United States magistrate
10 judge.

11 (B) DEFINITION.—For purposes of this
12 resolution, the term “National Authority”
13 means the agency or office of the United States
14 Government designated by the United States
15 pursuant to Article VII(4) of the Convention.

16 **SEC. 3. DEFINITIONS.**

17 As used in this resolution:

18 (1) CHEMICAL WEAPONS CONVENTION OR CON-
19 VENTION.—The terms “Chemical Weapons Conven-
20 tion” and “Convention” mean the Convention on the
21 Prohibition of Development, Production, Stockpiling
22 and Use of Chemical Weapons and on Their De-
23 struction, Opened for Signature and Signed by the
24 United States at Paris on January 13, 1993, includ-
25 ing the following protocols and memorandum of un-

1 derstanding, all such documents being integral parts
2 of and collectively referred to as the “Chemical
3 Weapons Convention” or the “Convention” (con-
4 tained in Treaty Document 103–21):

5 (A) The Annex on Chemicals.

6 (B) The Annex on Implementation and
7 Verification.

8 (C) The Annex on the Protection of Con-
9 fidential Information.

10 (D) The Resolution Establishing the Pre-
11 paratory Commission for the Organization for
12 the Prohibition of Chemical Weapons.

13 (E) The Text on the Establishment of a
14 Preparatory Commission.

15 (2) ORGANIZATION.—The term “Organization”
16 means the Organization for the Prohibition of
17 Chemical Weapons established under the Conven-
18 tion.

19 (3) STATE PARTY.—The term “State Party”
20 means any nation that is a party to the Convention.

21 (4) UNITED STATES INSTRUMENT OF RATIFICA-
22 TION.—The term “United States instrument of rati-
23 fication” means the instrument of ratification of the
24 United States of the Convention.

○

105TH CONGRESS
1ST SESSION

S. RES. 75

EXECUTIVE RESOLUTION

To advise and consent to the ratification of the
Chemical Weapons Convention, subject to certain
conditions.

APRIL 24, 1997

Considered, amended, and agreed to