

safeguards and protection of industry rights and information during any inspections.

In September 1996, the National Federation of Independent Business expressed some concern regarding the potential impact of CWC reporting requirements on the U.S. small business community.

More recently, the National Federation of Independent Business has revised its position on the CWC. A February 14, 1997, Wall Street Journal article by Carla Robbins quoted Dan Danner, vice president of Federal Government Affairs, as saying, "It is now our belief our members are not going to be impacted." The article went on to convey NFIB's view that treaty opponents who suggested that NFIB was opposed to the CWC were "100% incorrect."

Mr. Danner reiterated the National Federation of Independent Business position in a March 5 letter to me in which he said, "It is now our belief that the small business owners that we represent will not likely be included in the reporting requirements and, therefore, not affected by the CWC. Our concerns have been answered to our satisfaction."

Fifth, Russia and the CWC: Some critics claim that Russian activities with regard to its stockpile will be unaffected by whether the United States joins the convention and that Russia has, in any event, been developing new chemical agents that would circumvent the treaty's constraints.

Let us be clear about one thing. Russian activities will surely be unaffected if the United States does not ratify the CWC. Some Russians are grateful for the support they find for their position on the CWC from many American critics of the convention. One thing is certain: The Russians do not want the United States to ratify the Chemical Weapons Convention. Why? Because they know they cannot afford to have the United States participating in the OPCW without them. By the same token, if the United States does not join, the Russian Government has very little incentive to expend the political resources necessary to bring various elements of the military-chemical complex into line with treaty provisions. However, the Russian Government and the branches of the Russian Parliament are moving the CWC through the ratification process to the point where it could be acted upon in short order if the United States ratifies.

Second, the point is not that Russia is developing agents that would circumvent the treaty's constraints. Rather, the point is that we know that they are developing them, they are or can be added to the treaty's prohibited list, and that without the CWC, there is absolutely nothing illegal or non-compliant about Russian activities in this area.

The CWC is not perfect, but it is necessary for the additional tools it provides the United States,

No. 1, giving us leverage not just for the United States, but for the entire international community to pressure Russia to destroy its huge chemical weapons stockpile;

No. 2, it acts as a means to reinforce the norms against chemical weapons;

No. 3, it gives an ability to track chemical trade;

No. 4, it gives procedures for evaluating important information for the intelligence community;

No. 5, it gives a requirement for state parties to pass domestic legislation criminalizing activities prohibited by the treaty; and

No. 6, the CWC gives a legal basis for the international community to take action in the face of unacceptable behavior.

#### A SUBSTITUTE?

What are the critics of the treaty offering to accomplish these same tasks? What are they proposing that will help diminish the international chemical weapons threat?

To be sure, a piece of legislation was passed last week—Senate bill 495—which overlaps the CWC and its implementing legislation in several areas. But by no means can one consider this domestic piece of legislation equal to or a substitute for an international multilateral treaty which not only bans use of chemical weapons but bans the manufacturing, stockpiling, trade, and deployment of chemical weapons.

Senate bill 495 calls for U.S. leadership in adding "teeth" to the 1925 Geneva Protocol banning chemical weapons use. But the United States has already done this and the final product is the document before us today—the Chemical Weapons Convention. The Reagan and Bush administrations wisely decided to pledge not to manufacture, produce, or stockpile chemical weapons; the CWC forces other members to do the same. Without the CWC, the rest of the world would be allowed to make, stockpile, and deploy chemical weapons, and the United States would only be able to react after a Syria, Libya, Iraq, or North Korea has used chemical weapons on its population, its neighbors, or on American troops. At that point it will be too late for the victims.

S. 495 does nothing to address the concerns of the U.S. chemical industry. In a letter signed by 53 chief executive officers of America's largest chemical companies they state: "our industry's status as the world's preferred supplier of chemical products may be jeopardized if the U.S. does not ratify 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, putting at risk thousands of good-paying American jobs." S. 495 does nothing to solve industry's concerns regarding the negative impact the CWC would have on their international competitiveness if the United States does not ratify the convention before April 29.

Indeed, S. 495 is designed primarily to deal with the consequences of a chemi-

cal incident on American soil, not on its prevention or deterrence, as is the case with the CWC.

Whereas the CWC specifies illegality without qualification or condition—the use or possession of chemical weapons is absolutely prohibited—the enactment of S. 495 without CWC ratification would mean that the United States is not obligated to destroy those chemical weapons that is not already committed to destroy under the 1986 law. In this respect S. 495 is most certainly for the United States a law that authorizes the retention of the most dangerous chemical weapons. Thus, while the CWC would establish a clear and binding international prohibition against the possession of chemical weapons, enactment of S. 495 without CWC ratification would establish a clear U.S. position in support of those nations, including the United States, who choose to maintain these weapons.

In fact, S. 495's prohibitions against possession or use, and so forth, of chemical weapons are merely antiterrorism provisions, without significant transnational strategic implications, which are already provided for by existing United States law. As to the law's provisions that the U.S. will impose sanctions against nations that use chemical weapons, it is highly questionable whether such sanctions will be effective; in any event, these sanctions expressly do not apply to nations that stockpile but do not use chemical weapons.

S. 495 merely reinforces the status quo. Without the CWC, states interested in developing chemical weapons—Syria, Libya, Iran, Iraq, and North Korea—will have free rein to pursue their programs. As we saw in the case of Iraq, existing policy tools are not adequate.

#### THE RESOLUTION OF RATIFICATION: EXECUTIVE RESOLUTION 75

I have spent considerable time reviewing the resolution of ratification to the Chemical Weapons Convention to be laid before the Senate, Senate Executive Resolution 75, and measuring the proposed conditional remedies against perceived and/or real shortcomings in the convention and against the benefits to the United States of full participation in the convention.

Exhaustive negotiations over the past several months have produced a set of 33 conditions to the resolution of ratification; 28 of these conditions enjoy the support of those involved in the negotiations. I support them. Under a unanimous-consent agreement, the Senate will consider these 28 conditions as a package—on a voice vote.

Then the Senate will turn to the remaining five conditions which are in dispute. I have concluded that the effect of these remaining conditions proposed in Senate Executive Resolution 75 would be to destroy the Chemical Weapons Convention in a supposed effort to save it.

I firmly believe that these remaining conditions—the Senate will have a separate vote on each—would, if accepted,

be tantamount to killing the Chemical Weapons Convention outright, or would have a significant adverse impact on its implementation.

Any condition that requires, as the price of ratification that all or parts of the treaty be renegotiated before it can enter into force is a killer. It is unrealistic to expect that we can renegotiate a treaty with over 160 signatories. Additionally, a U.S. condition of this nature would not only prevent U.S. participation in the convention but could encourage other signatories contemplating ratification to attach similarly unacceptable conditions.

Four of the proposed conditions would require the President to make certain certifications to the Senate prior to depositing instruments of ratification, certifications that certainly cannot be made by April 29, if ever. Consequently, approval of any of these conditions would prevent the United States from joining the treaty. The fifth would be very bad policy, at once undermining two U.S. objectives: to maintain an effective onsite inspection regime and to have U.S. inspectors participate in inspections of suspect states.

The unanimous-consent agreement is carefully configured so that no substitute amendments or conditions in these five areas of disagreement can be offered. Only motions to strike will be in order.

Let me deal with each of the five conditions.

#### CONDITION NO. 29 ON RUSSIA

One of the items on which the Senate will be asked to vote is a condition—proposed condition 29—that would prohibit the United States from ratifying the CWC until the President certifies that Russia has done the following: ratified the CWC, complied with the 1990 Bilateral Destruction Agreement [BDA], fulfilled its obligations under the 1989 Wyoming Memorandum of Understanding [MOU], and ceased all chemical weapons activities.

This is a killer condition that would prevent the United States from joining the CWC. It must be struck.

This condition effectively holds hostage U.S. participation in the CWC to a group of hardliners in the Duma. It would let Russia off the hook and give them an excuse to withhold ratification. Why should we let Russia decide our foreign policy?

This condition would hold hostage our ability to join the CWC to the hardliners in the Russian Duma. As the President said, "this is precisely backwards. The best way to secure Russian ratification is to ratify the treaty ourselves. Failure to do so will only give hardliners in Russia an excuse to hold out and hold on to their chemical weapons."

The prospect of Senate ratification is clearly putting pressure on Russia to ratify. The Duma announced last week that it will begin debate on the CWC today. Russia does not want to be left behind, especially if the United States is on the inside setting the rules.

In sum, we should not give Russia the power to decide our participation in and leadership of this crucial treaty. As General Rowny testified, "I think if we fail to ratify this Chemical Weapons Convention, it is going to give the Russians an excuse on a silver platter to say well, the United States did not ratify and we won't either."

Vil Mirzayanov, a Russian scientist who blew the whistle on the Soviet Union's chemical weapons programs and strongly supports the treaty, recently wrote to me and said: "Senate ratification of the Convention is crucial to securing action on the treaty in Moscow \* \* \* the Russian government does not want America to dominate the Organization for the Prohibition of Chemical Weapons and the important decisions that the body will soon be making about the Convention's implications."

By not ratifying, the United States would be giving a present to hardline opponents of the CWC and of relations with the West more generally. By ratifying, the United States would not be giving a Christmas present to Russia; instead, it would provide a powerful tool for bringing further pressure to bear on Moscow to get on with chemical disarmament—and to stay engaged more generally in cooperative international measures that promote arms control and nonproliferation.

The 1990 BDA was never ratified by the United States or Russia. It was explicitly designed to provide a boost to negotiations on the CWC and gain Russian ascent to the United States position for an immediate cessation of chemical weapons production and the destruction of the chemical weapons stockpiles. It served that purpose. Many of the BDA's provisions were adopted by the CWC. The BDA has several shortcomings that are corrected in the CWC. For example, the BDA allows both countries to retain 5,000 tons of chemical weapons, while the CWC requires the destruction of all chemical weapons. Also, the BDA has no provision for challenge inspections that are contained in the CWC.

The 1989 Wyoming MOU was also designed to jumpstart CWC negotiations by providing for reciprocal data exchanges and inspections of chemical weapons facilities by the United States and Russia. It, too, served its purpose. The United States has some questions that linger over Russian data, but we can gain valuable information about Russia through the CWC's verification provisions.

Key officials in Moscow do not dispute that there are individuals, both civilian and military, who wish to retain an offensive chemical weapons capability and thus oppose CWC ratification. This is hardly surprising, given the fact that we have individuals in an out of the American Government who oppose CWC ratification for the same reason. Many of these individuals associated with Russian chemical weapons research and development as well as

production are the very ones tasked to provide the data called for under the Wyoming MOU. Moreover, various Russian military officials have argued that, given the near disintegration of the Russian conventional military capability, only nuclear and chemical weapons may be able to compensate for such conventional weaknesses.

While Russian Government officials express their concerns about the political and economic costs of finalizing the BDA and/or ratifying the CWC before it enters into force, they do acknowledge, however grudgingly, that only United States ratification of the CWC will force them to deal decisively with the economic, political, and military dilemmas associated with chemical weapons. They also acknowledge that if the United States fails to ratify the CWC, then those military and civilian voices in Russia who favor the retention of an offensive chemical weapons capability could well become the majority.

The fourth certification requirement of this condition is apparently driven by reports of Russian "novel" chemical agents. If these reports are correct, then the CWC and its challenge inspection regime is the best tool for exposing and ending such activities. Without the CWC, we will be denied important information and Russia will be under no legal obligation to end its suspected activities.

#### CONDITION NO. 30 ON ROGUE STATES

Proposed condition 30 would prohibit the United States from ratifying the CWC until all states determined to possess offensive chemical weapons programs, including China, North Korea, Libya, Syria, Iran, and Iraq, as well as other state sponsors of terrorism, have ratified.

This is a killer condition that would prevent the United States from ever joining the CWC. It, too, must be struck.

This condition would make our joining this treaty hostage to Saddam Hussein, Qadhafi, other leaders of rogue states. This condition would allow these outlaw states to continue business as usual with no constraints, while our industry suffers, our leadership is undermined, and our ability to influence and benefit from the CWC regime is compromised.

By allowing the world's most recalcitrant regimes to decide for us when we join the CWC, this condition borders on a dangerous surrender of U.S. national sovereignty. It effectively lets the world's villains write the rules of international conduct.

Supporters of this condition say that we should not have a CWC because there will be cheaters. As Secretary of State Albright has said, that is a bit like saying that we shouldn't have laws because people will break them. But the CWC was not written with the illusory expectation that all of the world's bad actors would immediately sign up. Instead, it was negotiated with the cold-eyed recognition that rogue states