

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

would stay out and, therefore, should be isolated and targeted. That is why the CWC contains mandatory sanctions for those states that remain outside of the regime.

After years of providing international leadership in the fight to stop the spread of chemical weapons, we would be siding, not with our allies, on the inside, but with Libya, Syria, and Iraq on the outside. As General Norman Schwarzkopf has testified, "by not ratifying that treaty, we align ourselves with nations like Libya and North Korea, and I just as soon not be associated with those thugs in this particular matter."

Our industry will be subject to automatic trade restraints beginning on April 29 if we don't ratify. Ironically, these are the same restrictions the United States fought for in the negotiations to put pressure on the rogue states to join the treaty.

Today, there is nothing illegal in international law about the chemical weapons programs in any of the countries mentioned in this condition. That will change once the CWC enters into force. It will establish a norm against the stockpiling, development, transfer, and production of chemical weapons—all perfectly legitimate activities today. It will provide the basis for harsh action against those that violate this norm. In plain English, that means the CWC will legitimize military action we might take against a rogue state that develops chemical weapons illegally. It will also increase the likelihood of forging international coalitions. Conversely, accepting this condition would undermine our ability to lead on nonproliferation matters.

This condition also ignores the fact that regardless of what these countries do, we are unilaterally destroying our chemical weapons stockpile. Chemical weapons are no longer a part of our military doctrine. Instead, as the gulf war demonstrated, we will rely on our overwhelming nonchemical capabilities to deter chemical weapons use.

In sum, this condition will not promote ratification in any of the rogue states but instead will give leverage to those factions within these countries who do not want their governments to be parties. As Gen. Brent Scowcroft has testified, "by remaining outside the CWC, we let these rogue states off the hook by making it easier for them to ignore pressures to abandon the chemical weapons option. In all these cases, we undermine the effectiveness of the CWC to do unto others what we have decided to do for ourselves: get out of the chemical weapons business."

This condition turns the present global arrangement on its head. Instead of the United States sustaining our historic leadership role in setting nonproliferation norms, this condition would have us take a backseat to the likes of Saddam Hussein and Mu'ammar Qadhafi. That does a grave disservice to our record of leadership over the past 40 years from the Nuclear Non-

proliferation Treaty, to the missile technology control regime, to the CWC itself.

No country, especially outlaw states, should have a veto over our national security. As Jim Baker has stated, "It makes no sense to argue that because a few pariah states refuse to join the convention the United States should line up with them rather than with the rest of the world."

CONDITION 31 ON REJECTING CWC INSPECTORS

A third condition on which the Senate will be asked to vote is condition 31, which would require the United States to reject all CWC inspectors from countries that supported terrorism or violated U.S. nonproliferation law.

This is an unnecessary condition, one that has the potential to do great harm to the implementation of the CWC, and one that is a poor way to get at the perceived problem of untrustworthy CWC inspectors. It should be struck.

The dangers that CWC inspectors will learn some trade secrets of U.S. firms in the course of onsite inspections are limited. Many CWC provisions limit what inspectors will learn. Facility agreements governing routine inspections and managed access in challenge inspections will specify what inspectors can see. U.S. firms are free to use such devices as shrouding, removal of papers, and limiting the number of inspectors who see a particular area or how long they are allowed to see it. No employees need answer questions that are irrelevant to the question of whether the CWC is being violated. An agreed condition, No. 16, adds teeth to the CWC provision permitting the director-general to waive the immunity of any employee who betrays confidential U.S. information.

The CWC already provides the U.S. Government the right to bar inspectors on an individual-by-individual basis each year when the CWC organization proposes its list of inspectors, just as a defense attorney can peremptorily challenge a prospective juror in a trial.

Condition 31 is unnecessarily rigid. This condition takes a meat ax approach to whom we would allow to come to the United States, which is almost certain to provoke reciprocity. In other words, adoption of this condition would most likely result in other nations blackballing all American inspectors in advance. This would defeat one of our principal objectives in our joining the treaty: to ensure American inspectors take the lead in finding violations, just as we have for UNSCOM in Iraq.

It also fails to require rejection of inspectors from other countries who might be known spies or have a record of improper handling of confidential information.

As Admiral Zumwalt recently testified, "the ability for us to get more access is an important thing to me as a member of the President's Foreign Intelligence Advisory Board; the opportunity to inspect is going to give us ad-

ditional information which can be cross-compared with what we get through the intelligence community. And it will, without a doubt, enhance our ability to know more about what is going on."

A better approach would have been to require the President to tell the intelligence committees of Congress the nationality of all inspectors the United States approved, as well as any derogatory information about them that U.S. agencies might have. This would enable those committees to weigh in with the executive branch if the U.S. National Authority were ignoring serious information or other agencies' concerns regarding an inspector.

A substitute condition was prepared embodying this more flexible approach. CWC critics would not even consider this, and instead insisted that no substitutes be in order. We can avoid this Hobson's choice, however, between rigidity and doing nothing. All we have to do is vote to strike condition 31 and then enact more sensible language in the implementing legislation that will come to the floor next month. I urge you to do just that.

CONDITION 32 ON ARTICLES X AND XI

The fourth condition is condition 32, which requires the President, prior to depositing the instrument of ratification, to certify that the parties to the convention have agreed to strike article X from the convention, and amend article XI.

This provision is a killer, plain and simple, and will prevent the United States from joining the convention. The President cannot make such a certification prior to April 29, and probably never will be able to do so, because the convention permits a single State party to veto such amendments. This provision must be struck.

Proponents of this condition contend that the convention requires the United States and other parties to share critical technology that will assist countries of concern to develop offensive chemical weapons programs. But this is just not so.

Article X focuses, in large measure, on assistance and protection for countries attacked, or facing attack, by chemical weapons. Opponents of the CWC have contended that paragraphs 3 and 7 require the United States to provide defensive technology to other members. But the administration has made clear that paragraph 3 leaves it up to the United States to decide precisely what, if anything, it will exchange, and has committed that the only assistance it will provide under paragraph 7 is medical antidotes and treatment. This latter promise is locked in—by condition 15 of Senate Executive Resolution 75.

Only countries that have joined the CWC and renounced chemical weapons can request assistance under article X and only then if they are threatened or attacked with chemical weapons.

Thus, article X is intended to encourage states to do what the United States