

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

wants them to do: join the CWC and eliminate their chemical weapons program.

The President has committed in resolution of ratification condition No. 15 that the United States will only give medical help to certain countries or concern, under this article. The United States will not be giving them our best gas masks or any other chemical weapons defense technology.

With regard to other states, the United States will use every instrument of U.S. diplomacy and leverage to make sure transfers do not occur that could undermine U.S. national security interests. As Secretary Cohen said Sunday, we will be better able to do this if we are inside the treaty rather than out.

U.S. absence from the treaty will do nothing to keep another state from giving Iran and Cuba gas masks.

Article XI addresses the exchange of scientific and technical information. Opponents of the CWC contend that this article also requires the sharing of technology, and will result in the erosion of export controls not only in U.S. law, but also among nations of the Australia Group, an informal alliance of potential supplier countries. This is simply not so. The administration, and the other Australia Group nations, have clearly stated their commitment to retain the current level of export controls. And condition 7 binds the administration to this promise. It requires the President to certify that "nothing in the convention obligates the United States to accept any modification of its national export controls," and, among other things, to certify annually that the Australia Group is maintaining controls that are equal to, or exceed, the controls in place today.

Regarding article XI, the critics further claim that a treaty expressly devoted to eliminating chemical weapons somehow would force its parties to facilitate the spread of chemical weapons. This interpretation is totally at odds with the plain language of the treaty.

To repeat, in order to reinforce the treaty's constraints, the President has committed in an agreed condition on the resolution of ratification to obtain assurances from our Australia Group partners that article XI is fully consistent with maintaining strict export controls on dangerous chemicals. This condition also requires an annual certification that Australia Group members continue to maintain equally effective or more comprehensive controls over chemical weapons related materials and that the Australia Group remains a viable mechanism for limiting the spread of chemical and biological weapons related material and technology.

The critics concern about dangerous exchanges under article XI misses the main point, which is that any such exchanges can take place now without the CWC. With the CWC, the countries

undertaking exchanges are legally bound by the fundamental obligation of the treaty to renounce chemical weapons.

The Chemical Weapons Convention will mean not only that all relevant trade is subject to closer scrutiny, especially with countries whose compliance may be in doubt, but it will also provide the legal basis as well as the verification and compliance measures to redress those concerns.

As Ron Lehman recently stated in testimony before the Senate Foreign Relations Committee, "we made it very clear throughout the negotiations that all of this was subject to article I, which is the fundamental obligations not to assist, but the most important, telling factoid in support of the U.S. interpretation is the fact that after the convention was done so many of the usual list of suspects were so unhappy that they did not get what they wanted in these provisions."

Renegotiation is not a realistic approach, as Brent Scowcroft recently testified. "Starting over is pure fantasy. If we reject this treaty, we will incur the bitterness of all of our friends and allies who followed us for 10 years in putting this together. The idea that we can lead out again down a different path I think is just not in the cards. We have got to deal with the situation we face now, not an ideal one out in the future."

CONDITION 33 ON VERIFICATION

The last condition on which the Senate will be asked to vote is condition 33—strictly a killer condition—that would bar the United States from ratifying the CWC until the President can certify high confidence in U.S. capabilities to detect, within 1 year of a violation, the illicit production or storage of a single metric ton of chemical agent.

The United States will never be able to certify this level of monitoring confidence, so condition 33 would bar U.S. participation in the CWC forever. It, too, must be struck.

This condition sets an unrealistic and unachievable standard for monitoring the treaty and would therefore ensure that we would not become a party to the agreement.

Nobody denies that compliance with some aspects of the CWC will be difficult to verify. Other aspects of the CWC—like the storage and destruction of declared chemical weapons stocks—will be verifiable with fairly high confidence. But a determined country could probably hide a small-scale program of producing or stockpiling illegal chemical agent. We all know that. The important point is that without CWC, such activities won't violate anything. Only if we join the convention, can we effectively combat chemical weapons production and stockpiling.

Our Intelligence Community has testified that it would be very difficult to detect production of small quantities of chemical weapons. We do have high confidence, however, that we can de-

tect cheating where it matters most: that is, if an adversary tries to translate illegal production into a militarily significant capability on the battlefield.

This condition defines production of 1 ton as "militarily significant". But Richard Perle, a CWC critic, has testified that "the possession of lethal chemicals is not by, itself, sufficient to constitute a military capability."

And as Gen. Brent Scowcroft noted in testimony to the Foreign Relations Committee, CWC declarations on chemical exports will be a useful new tool: "Right now, it is possible for a country to buy a few pounds of a precursor here or a few pounds there, a few pounds somewhere else, and to amass an abnormal supply without anybody ever noticing it. That won't be possible anymore. Therefore, we will have a better idea of what's going on and who the bad guys seem to be."

There is no need to adopt a 1-ton threshold for effective verification of the CWC. General Shalikashvili has testified that a single ton might have a real political impact, especially if used in a terrorist attack against unprotected persons. But Iran and Iraq used tens of tons per month against each other without altering the course of their war; studies for the Department of Defense found that it would take several hundred to a thousand tons to seriously disrupt U.S. logistics in a war; and the U.S. stockpile of chemical weapons—which we are committed to destroy whether we join the CWC or not—is about 30,000 tons.

General Shalikashvili went on to say that tonnage is not the only factor to consider. If a country's illicit chemical agent stockpile is to be translated into something militarily usable, there must also be weapons in which to put the agent. There must be an infrastructure for the handling of chemical weapons. And troops must be trained in the use and effective employment of the weapons. Each aspect of developing a real chemical weapons capability is potentially open to monitoring, and each aspect constitutes both a CWC violation and sufficient justification for the United States to request a challenge inspection.

To quote General Shalikashvili fully, "a militarily significant quantity of chemical weapons is situationally dependent. Variables involved in determining this quantity are the military objective, weather, terrain, number of troops, type of chemical agents used, the chemical agent weapons system and method of deployment, and the chemical weapons defensive capability of the targeted force . . . the quantity is totally scenario dependent, and it would be difficult to cite a specific amount as militarily significant."

U.S. intelligence officials have testified that the CWC will add to their monitoring tools to cover a significant target—one that they will have to monitor whether we join the CWC or not. Data declarations will give the