

and Senator BINGAMAN, at which time the Senate will then reconvene in the Old Senate Chamber for a closed executive session.

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

Mr. LOTT. Does the Senator seek recognition?

Mr. BIDEN. Only to recognize Mr. HAGEL.

Mr. LOTT. I yield the floor, Mr. President.

## EXECUTIVE SESSION

### CHEMICAL WEAPONS CONVENTION

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I ask, how much time do I have remaining?

The PRESIDING OFFICER. First we will have the clerk report the pending business.

The assistant legislative clerk read as follows:

Treaty Document No. 103-21, the convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction.

The Senate resumed consideration of the convention.

The PRESIDING OFFICER. The Senator from Delaware has 1 hour 30 minutes remaining.

Mr. BIDEN. Mr. President, I yield 7 minutes to my distinguished colleague from Nebraska, and if he needs more time, let me know. We are kind of tight on time. Then, in accordance with the unanimous-consent request by the majority leader, I will yield 7 minutes of my time to the distinguished Senator from New Mexico, [Mr. BINGAMAN].

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 7 minutes.

Mr. HAGEL. Mr. President, I thank you.

Mr. President, it was 30 years ago this week that I joined the U.S. Army. It was 29 years ago this week, with my brother Tom, that I was first wounded in Vietnam. This is an important week of reflection for me as we take up the final hours of debate on the Chemical Weapons Convention.

I rise this morning to say that I will vote for the Chemical Weapons Convention. America's national security interests are better served with this treaty than without it. Our men and women in uniform are better served with this treaty than without it.

There are few Senators who have put as much time in on this issue than I have, studying this treaty over the past few weeks. As a freshman Senator, I began with very limited knowledge about this convention. I had to understand it totally before I could make an intelligent vote on the treaty.

This treaty is much improved from the form in which it was first submitted to the Senate. I would have voted against this treaty in its original form.

But as the Framers of our Constitution intended, the Senate has worked its will and has substantially strengthened the final agreement. Because of the strong leadership and negotiation, in my judgment, the balance has tipped strongly in favor of ratification of this convention.

The people of this country should recognize the important roles that Majority Leader LOTT, Chairman HELMS, and Senators BIDEN, LUGAR, and KYL played in this debate. They allowed the Senate the opportunity to listen, to learn, and to understand this treaty, to debate this treaty, and they have brought a more informed Senate together to vote on this treaty as we will throughout the day.

That is what this body, the Senate, should be about, debating important issues that have consequences for all Americans. This convention will have consequences for all peoples around the globe.

Under the leadership of Majority Leader LOTT, Senator BIDEN, the administration, and others, the Senate made 28 substantial changes to the original treaty to address major problems in the treaty, several of which were key to improving it, in my opinion. The majority leader held a news conference 45 minutes ago and read a letter from the President—as far as I know, unprecedented in arms control conventions—laying out some of the concerns that this President has and this body has about issues in this convention. I think that, too, further strengthens this treaty.

We fully protected the constitutional rights of our businesses against unlawful searches and seizures by ensuring that international inspection teams must obtain a search warrant before entering any American facility. This means no challenge inspection will occur unless a U.S. Federal judge finds probable cause to believe a violation of law has occurred at that facility. The rights guaranteed under our Constitution will continue to reign supreme.

We ensured that the American military will be able to use nondeadly riot control agents, such as tear gas. As military operations become increasingly complex and involve more areas with civilian populations, it is imperative that our military commanders have the maximum flexibility to employ a range of force, including nondeadly force.

We made clear that our existing national and international export controls will remain in place. The United States simply will not transfer chemical technology in any manner that would weaken our existing controls or military defense capabilities, or would tend to allow dangerous chemical technology to fall into the hands of pariah regimes.

We put in place safeguards to ensure that American intelligence data is protected whenever it is shared with the international organization that will oversee operations of the convention.

We also prohibited chemical samples taken at American laboratories from being transferred off American soil—an important provision that helps protect proprietary and security information.

And, we took steps to ensure that the new international organization set up to monitor and enforce the convention will not become an ill-managed bureaucracy that burdens the American taxpayer. We put a cap on the American contribution to that organization, and we required the organization to establish and maintain an independent inspector general.

I should like to close with this. As I have referenced, there are a number of improvements that have been made to this treaty. We have five more proposed conditions that remain in disagreement that we will vote on yet today. I will vote to strike at least four of those conditions because they would effectively prevent American participation in the convention and would undermine the very purpose of this treaty.

This treaty, however, is no magic instrument that will guarantee Americans and our troops safety from chemical attack. No treaty can substitute for unwavering American strength, determination, vigilance, and leadership. But this treaty is one more tool we can use to make chemical attacks less likely. It does improve our eyes.

With or without this treaty, the United States years ago decided never again to use chemical weapons and is committed by law to completely destroy our stockpile of chemical weapons by early in the next century. That decision was made during the Reagan administration and was reaffirmed by the Bush administration.

The important question now is, what can we do to give ourselves more leverage to press other countries to do the same? It is a very important question. Ratifying this treaty is not the end of our efforts to make chemical attacks on Americans less likely. To the contrary, it is only the beginning. As President Reagan's top arms control negotiator, Ronald Lehman, said last week before our Foreign Relations Committee:

Ratification is essential to American leadership against proliferation of weapons of mass destruction, but ratification alone is not enough. Strong follow-up involving all branches of Government will be vital.

We must now use the tools of this treaty effectively. The treaty tools give us, I believe, the most effective way to deal with the proliferation of chemical weapons. We must keep America strong. We must keep America vigilant. The Senate has an important and ongoing role to play in making sure this treaty is implemented properly, and I am committed as a Senator to making that happen.

For me, this has never been a political issue, Mr. President. This vote is not about Republicans. It is not about Democrats. It is not about conservatives, not about liberals. It is not

about Bill Clinton. It is not about TRENT LOTT. This vote is about America's national security interests. It is about our young men and women in uniform all over the world who may someday face an adversary with chemical weapons. It is about each Senator doing what he or she thinks is in the best interests of our country.

For those reasons, Mr. President, I urge our colleagues to vote for ratification of the Chemical Weapons Convention.

I yield my time.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Before the Senator yields back all his time, if he will yield to me for a comment.

Mr. HAGEL. Yes.

Mr. BIDEN. Mr. President, I am obviously very pleased with the decision the Senator from Nebraska made, but I want to state on the record that I would have been comfortable with whatever decision he made, and I say that for the following reasons. I have been here for 24 years. It has been a long time since I have been a freshman Senator, but I remember how overwhelming it was and the pressures that are exerted, legitimate pressures, when major issues confront someone. I have watched the Senator from Nebraska from the day he got here, because we serve on the same committee, attack with a seriousness of purpose I have seldom seen one of the most complicated issues that is going to come before this body this year. It was not merely determining what groups, what party, what factions of parties were for and against the treaty. He wanted to know what article X meant in the language. He wanted to know whether article I trumped article X. He wanted to know the details of it, and he addressed it.

He indicated that this is the eve of an anniversary. It seems appropriate and totally consistent, I am going to say for the record—I hope I do not embarrass him—what I said to him privately. I have also observed another feature about him. This is a man whose conduct on the battlefield is mirrored by his conduct in politics, in that when he thinks he is right he is not afraid to do whatever it is he thinks he should do. And that comes through. That is what I mean when I say I would have been comfortable and assured that he had given it every consideration had he concluded to vote the other way. I want to publicly compliment him, not for the decision he made, but the way he made the decision. I hope that does not cost him politically, for someone on this side of the aisle to compliment my colleague.

There is another freshman Senator I serve with, Senator GORDON SMITH, who may not come to the same conclusion, but he has addressed it with the same kind of alacrity and commitment. So I just say it is a pleasure to serve with the Senator and our col-

league, Senator SMITH. But as I said, I am happy he came out the way he did. Regardless of how the Senator came out, I would have been comfortable.

I yield the floor.

Mr. HAGEL. I thank the Senator.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico is recognized for 7 minutes.

Mr. BINGAMAN. Mr. President, thank you.

I thank the manager of the bill, the Senator from Delaware, for yielding me time.

I also commend my colleague from Nebraska. I sat through a meeting with him and the Senator from Delaware at the White House where he asked some very penetrating questions. The President and the Vice President were there. The Secretary of State was there. Our Ambassador to the United Nations and a great many individuals who studied this treaty were there. And I am very pleased to see the decision that our colleague from Nebraska has made.

Mr. President, a point that was made by the Senator from Nebraska I think needs to be foremost in our minds, and that is that this is different from all other treaties that have come before the Senate since I have been here, in that this does not ask us to give up any military capability that we have not already decided to give up.

Most treaties involve an agreement by us to give up military capability in return for other nations giving up military capability. But we have decided unilaterally during the Reagan administration and have maintained the policy ever since then that we are going to renounce the use of chemical weapons, destroy our stockpile of chemical weapons. What this treaty does is try to find ways to bring other nations to that same decision.

President Reagan did commit to that in the 1980's. President Bush reiterated that position. President Clinton has certainly done so as well. That is a central part of this discussion that needs to be kept in mind.

A second part of the discussion that needs to be kept in mind is that by going ahead and ratifying this treaty, we give up no other tools that we have to prevent chemical attack or to retaliate against someone who might begin a chemical attack.

This is not: Do you want to have the ability to retaliate, or, on the contrary, do you want the treaty? We are going to retain in the future all capabilities to retaliate which we presently have. We stated very definitively in one of the conditions that is attached to this treaty that we will use a massive force to respond to any chemical attack. We do not consider a chemical weapons attack by a potential adversary or adversary to be comparable to a conventional attack; therefore, people need to know that we are not giving up any of our abilities or resolve in that regard.

I think these two factors are persuasive. We have chosen to destroy our

own chemical weapons anyway, whether this treaty goes into effect or not. And, second, we maintain the ability to retaliate against any chemical weapons attack with all the strength that we have today.

So what does the treaty buy us?

It buys us an international agreement with other nations that will, hopefully, bring them also to give up their chemical weapons stockpiles. And it puts in place mechanisms to ensure that they do that.

It buys us a guarantee that other nations which might have chosen to build chemical weapons will find it much more difficult to do so.

It buys us a likelihood that if anyone decides to cheat on the treaty, we will have the ability to detect that. It enhances our intelligence-gathering capability substantially. As the Director of the CIA testified—he said this treaty gives us tools that we do not now have to look into places where we cannot now look.

There have been some concerns raised. I will not go into those. I think they have been addressed extensively in the various conditions that have already been added to the treaty.

Let me just say a few words about the amendments that are being proposed.

The first amendment calls for us to withhold ratification until the Russian Duma agrees to the ratification and agrees to comply with an earlier statement about the destruction of chemical weapons.

Mr. President, what this does is essentially make our foreign policy and our national policy hostage to what the hard-liners in the Russian Duma decide to do. It gives the Russians an excuse for not ratifying the treaty if we do not. I think it would be contrary to our best interests.

A second amendment that will be offered, which I will oppose—or second effort to strike that I will support, deals with an amendment that would destroy the potential benefits of the Chemical Weapons Convention. It would require us to withhold ratification until various other countries, such as China, North Korea, Libya, and others, have ratified the treaty.

Again, this provision would essentially shift to others the ability to define what is in our own best national interest. That cannot be a good thing for the United States.

A third amendment deals with requiring us to reject inspectors from countries that have supported terrorism.

Mr. President, we have the ability under the treaty to reject any inspectors we do not want to permit to come into this country and inspect. But it does not serve our interest to require, put into law a requirement, that certain inspectors be rejected at this early stage because, clearly, that will give them the same ability to reject our inspectors. That is not in our best interest.

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

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

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

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

Will the Senator withhold the quorum request?

Mr. BINGAMAN. I withhold.

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

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

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

#### CHEMICAL WEAPONS CONVENTION

The Senate continued with the consideration of the convention.

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

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

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

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I thank the Chair.

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

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

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

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

Since its development by 19th century chemists, poison gas—as it was

known—has been seen as a singular evil giving rise to a singular cause for international sanctions.

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

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

Article 23 of the Annex to the Convention added:

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

(a) To employ poison or poisoned weapons

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

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

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

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

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

As part of the peace settlement that followed World War II, President Roosevelt, with the British, Chinese, and French, set up the United Nations. In 1957, within the U.N. system, the International Atomic Energy Agency was established. The new agency fielded an extraordinary new device, international inspectors, who began inspecting weapons facilities around the world to ensure compliance. This was enhanced by the Nuclear Non-Proliferation Treaty (NPT), which came into force in 1970, allowing inspectors to monitor declared nuclear sites. This was an unheard of compromise of traditional sovereignty. It has not worked perfectly. The number of nuclear pow-

ers, or proto-nuclear powers, has grown somewhat. But only somewhat: around 10 in a world with some 185 members of the United Nations. And never since 1945 has a single atomic weapon been used in warfare.

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

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

Every living Chairman of the Joint Chiefs of Staff over the past 20 years has called for ratification of the Chemical Weapons Convention.

Our beloved former colleague, Senator Bob Dole, has given his support and asked us to do what I think we can only describe as our duty. The President pleads.

Here I would note a distinction. In 1919, Woodrow Wilson could have had the Versailles Treaty, we could have joined the League of Nations, if only he had been willing to make a modicum of concessions to then-chairman of the Foreign Relations Committee and majority leader, Henry Cabot Lodge of Massachusetts. Wilson was too stubborn; in truth, and it pains an old Wilsonian to say so, too blind. Nothing such can be said of President Clinton. In a month of negotiations with the current chairman of the Foreign Relations Committee and the current Republican leader, the administration has reached agreement on 28 of 33 conditions. Only five proved unacceptable. And, indeed, sir, they are. The President could not in turn ratify a treaty with those conditions.

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

There are some modern day irreconcilables who oppose this Treaty for the same reason they eschew international law: viewing it as an assertion of what nice people do. Such a view reduces a magisterial concept that there will be enforced standards to a form of wishful thinking. A position which runs counter to a century of effort. Today I would appeal to those Republicans who might compare themselves with Senator Lodge. Unlike 1919, this President has heard your concerns and