

by the National Treasury Employees Union against a system that we are all familiar with. When there is concern about a potential terrorist attack, the Government has set up threat priorities. Green is a low threat, blue is a guarded threat, yellow is an elevated threat, orange is a high threat, and red is a severe threat.

We have just gotten word that the National Treasury Employees Union—and I want to put this in the RECORD—has filed a complaint basically contending that this system of ratings violates their union contract because the Department was required to negotiate with them before it sent out a warning system.

I also want to put in the RECORD the statement from the White House release on it that said:

In effect, the union is saying that the Customs Service has no right to implement the President's homeland security direction without entering into lengthy negotiations. And since the Customs Service went ahead anyway, it is now suing the Customs Service in the Federal Labor Relations Authority.

This is a case that just happened that we ought to be looking at as we write this bill.

I thank the Senator for yielding. To save money for the taxpayers, we produced one document on one side of the paper, and the other document on the other side of the paper. So when we put it in the RECORD, look on both sides of the paper. I ask unanimous consent that these documents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED STATES OF AMERICA, FEDERAL LABOR RELATIONS AUTHORITY—CHARGE AGAINST AN AGENCY

1. Charged Activity or Agency: United States Customs Service, 1300 Pennsylvania Avenue, NW, Room 2-3-D, Washington, DC 20229, (202) 927-2733, fax. (202) 927-0558.

2. Charging Party (Labor Organization or Individual): National Treasury Employees Union, 901 E. Street, NW, Suite 600, Washington, DC 20004, (202) 783-4444, fax. (202) 783-4085.

3. Charged Activity or Agency Contact Information: Sheila Brown, Director Labor Relations, 1300 Pennsylvania Avenue, NW, Washington, DC 20229, (202) 927-3309, fax. (202) 927-0558.

4. Charging Party Contact Information: Jonathan S. Levine, Asst. Counsel for Negotiations, 901 E St., NW, Suite 600, Washington, DC 20004, (202) 783-4444, fax. (202) 783-4085.

5. Which subsection(s) of 5 U.S.C. 7116(a) do you believe have been violated? (See reverse) (1) and (5).

6. Tell exactly WHAT the activity (or agency) did. Start with the DATE and LOCATION, state WHO was involved, including titles.

On or about August 20, 2002, Customs issued a Customs Alert Protective Measures Directive without first notifying NTEU and affording it the opportunity to negotiate in violation of 5 U.S.C. 7116(a)(1) and (5).

TIMELINE

March 11: President signed Homeland Security Policy Directive 3 (Attachment A), which called for the creation of the five-level

Homeland Security Advisory System. The key idea of this system was that federal state, and local agencies would adopt standardized protective measures for the different threat levels. This began a formal 135 day comment period.

July 26: Attorney General Ashcroft and Governor Ridge reported to the President that the system was ready to put into effect.

July 28: The White House directed all agencies to conform their protective security conditions to the new five tiered system.

August 20: The Commission of Customs, Judge Rob Bonner, complied with this directive from the President by issuing a Customs Alert Protective Measures directive to the entire customs Service (Attachment B).

September 10: The President decided to raise the threat level from yellow (level 3) to orange (level 4). The Customs Service and many other federal, state, and local security agencies responded by increasing their protective measures to the next level. Virtually all experts agreed this is a better system than what we had before.

September 18: The National Treasury Employee Union, which represents some officers of the Customs Service, filed a grievance with the Federal Labor Relations Authority (Attachment C) against the customs Service for issuing the directive.

[Their grievance reads: "On or about August 20, 2002, Customs issued a Customs Alert Protective Measures Directive without first notifying and affording it the opportunity to negotiate in violation of 5 U.S.C. 7116(a)(1) and (5)." (5 U.S.C. 7116(a)(1) and (5) is the standard statute under which ULP grievances are customarily filed.)]

In effect, the union is saying that the Customs Service has no right to implement the President's homeland security direction without entering into lengthy negotiations. And since the Customs Service went ahead anyway, it is now suing the Customs Service in the Federal Labor Relations Authority.

The PRESIDING OFFICER. The Senator from West Virginia.

IRAQ

Mr. BYRD. Mr. President, amidst the wall-to-wall reporting on Iraq that has become daily grist for the Nation's news media, a headline in this morning's USA Today leaped out from the front page: "In Iraq's arsenal, Nature's deadliest poison."

The article describes the horrors of botulinum toxin, a potential weapon in Iraq's biological warfare arsenal. According to the Journal of the American Medical Association, botulinum toxin is the most poisonous substance known. We know that Saddam Hussein produced thousands of litres of botulinum toxin in the run up to the Gulf war. We also know where some of the toxin came from. Guess. The United States, which approved shipments of botulinum toxin from a nonprofit scientific specimen repository to the government of Iraq in 1986 and 1988.

I recently asked Defense Secretary Donald Rumsfeld about these shipments during an Armed Services Committee hearing a week ago. I repeat today what I said to him then: In the event of a war with Iraq, might the United States be facing the possibility of reaping what it has sown?

The threat of chemical and biological warfare is one of the most terrifying

prospects of a war with Iraq, and it is one that should give us serious pause before we embark on a course of action that might lead to an all-out, no-holds-barred conflict.

Earlier this week, British Prime Minister Tony Blair released an assessment of Iraq's weapons of mass destruction program which contained the jolting conclusion that Iraq could launch chemical or biological warheads within 45 minutes of getting the green light from Saddam Hussein.

The British government assessment, while putting Iraq's chemical and biological capabilities in starker terms than perhaps we have seen before, closely tracks with what U.S. officials have been warning for some time: namely, Saddam Hussein has the means and the know-how to wage biological and chemical warfare, and he has demonstrated his willingness to use such weapons. By the grace of God, he apparently has not yet achieved nuclear capability.

On the matter of biological warfare, Gen. Richard Myers, Chairman of the Joint Chiefs of Staff, testified before the Senate Armed Services Committee last week that many improvements have been made to the protective gear worn by American soldiers and to the sensors used to detect chemical or biological agents.

But according to the USA Today article on botulinum toxin, U.S. troops would be just as vulnerable to botulinum toxin today as they were during the Gulf war.

This is what the article states:

There's still no government-approved vaccine, and the only antitoxin is made by extracting antibodies from the blood of vaccinated horses using decades-old technology.

Last year's anthrax attack on the U.S. Senate gave all of us in this Chamber firsthand experience with biological warfare and new insight into the insidious nature of biological weapons. And that attack—hear me now—involved only about a teaspoon or so of anthrax sealed in an envelope. The potential consequences of a massive bio-weapons attack against American soldiers on the battlefield boggle the imagination.

My concerns over biological warfare were heightened last week when I came across a report in Newsweek that the U.S. Government had cleared numerous shipments of viruses, bacteria, fungi, and protozoa to the Government of Iraq in the mid-1980s, at a time when the U.S. was cultivating Saddam Hussein as an ally against Iran. The shipments included anthrax and botulinum toxin.

Moreover, during the same time period, the Centers for Disease Control, CDC, was also shipping deadly toxins to Iraq, including vials of West Nile fever virus and Dengue fever.

This is not mere speculation. I have the letters from the CDC and the American Type Culture Collection laying out the dates of shipments, to whom they were sent, and what they

included. This list is extensive and scary anthrax, botulinum toxin, and gas gangrene to name just a few. There were dozens and dozens of these pathogens shipped to various ministries within the Government of Iraq.

Why does this matter today? Why do I care about something that happened nearly 20 years ago when Saddam Hussein was considered to be a potential ally and Iran's Ayatollah Khomeini was public enemy No. 1 in the United States? I care because it is relevant to today's debate on Iraq. This is not yesterday's news. This is tomorrow's news.

Federal agencies have documents detailing exactly what biological material was shipped to Iraq from the United States. We have a paper trail. We not only know that Iraq has biological weapons, we know the type, the strain, and the batch number of the germs that may have been used to fashion those weapons. We know the dates they were shipped, and the addresses to which they were shipped.

We have in our hands—now get this—the equivalent of a Betty Crocker cookbook of ingredients that the U.S. allowed Iraq to obtain and that may well have been used to concoct biological weapons. At last week's Armed Services Committee hearing, Secretary Rumsfeld said he has no knowledge of any such shipments, and doubted that they ever occurred. He seemed to be a little affronted at the very idea that the United States would ever countenance entering into such a deal with the devil.

Secretary Rumsfeld should not shy away from this information. On the contrary, he should seek it out if he does not know it. Let's find out. No one is alleging that the United States deliberately sneaked biological weapons to Iraq under the table during the Iran-Iraq war. I am not suggesting that. I am confident that our Government is not that stupid. It was simply a matter of business as usual, I suppose. We freely exchange information and technology including scientific research with our friends. At the time, I suppose, Iraq was our friend. If there is any lesson to be learned from the Iraq experience, it is that we should choose our friends more carefully, see further down the road and exercise tighter controls on the export of materials that could be turned against us. Today's friend may be tomorrow's enemy.

This is not the first time I have advocated stricter controls on exports. In fact, I added an amendment to the 1996 Defense Authorization Act that was specifically designed to curb the export of dual-use technology to potential adversaries of the United States.

In the case of the biological materials shipped to Iraq, the Commerce Department and the CDC have lists of the shipments. The Defense Department ought to have the same lists so that the decisionmakers will know exactly what types of biological agents American soldiers may face in the field. Doesn't that make sense?

Shouldn't the Defense Department know what is out there, so that the generals can know what counter-measures they might need to take to protect their troops?

I believe the answer to those questions is yes, and so I am sending the information I have to Secretary Rumsfeld. He said he did not have any such information so I am going to send it to Secretary Rumsfeld. No matter how repugnant he finds the idea of the U.S. even inadvertently aiding Saddam Hussein in his quest to obtain biological weapons, the Secretary should have this information at hand, and should make sure that his field commanders also have it.

The most deadly of the biological agents that came from the U.S. were shipped to the government of Iraq by the American Type Culture Collection, ATCC, a non-profit organization that provides biological materials to industry, government, and educational institutions around the world. According to its own records, the ATCC sent 11 separate shipments of biological materials to the government of Iraq between 1985 and 1988. The shipments included a witches brew of pathogens including anthrax, botulinum toxin, and gangrene.

Meanwhile, the CDC was shipping toxic specimens to Iraq—including West Nile virus and dengue fever—from January 1980 until October 13, 1993.

The nexus between the U.S.-approved shipments of pathogens and the development of Iraq's biological weapons program is particularly disturbing. Consider the following chain of events: In May of 1986, the ATCC reported the first shipments of anthrax and botulinum toxin to Iraq. A second shipment including anthrax and botulinum toxin was sent to Iraq in September of 1988.

At approximately the same time that the first shipment was sent in April of 1986, Iraq turned from studying literature on biological warfare to experimenting with actual samples of anthrax and botulinum toxin. The turning point, according to a report to the United Nations Security Council from the U.N. weapons inspection team, came when "bacterial strains were received from overseas" and delivered to an Iraqi biological weapons laboratory.

In April of 1988, the U.N. weapons inspectors reported that Iraq began research on the biological agent *Clostridium perfringens*, more commonly known as gas gangrene. *Clostridium perfringens* cultures were among the materials shipped to Iraq by the ATCC in both 1986 and 1988.

These are only a few examples of the pathogens that Iraq is known to have imported from the United States. It is not known how many of these materials were destroyed following the Persian Gulf war, or how many Iraq continues to possess, whether they are still viable, or whether in its pursuit of biological weapons, Iraq has developed ways to extend the shelf life of toxic biological agents. There is much that we

do not know about Iraq's biological warfare program. But there are two important facts in which we can have great confidence: Iraq has biological weapons, and Iraq obtained biological materials from the United States in the 1980s.

I asked Secretary Rumsfeld, at last week's Armed Services Committee hearing, whether we might be reaping what we have sown in Iraq, in terms of biological weapons. The question was rhetorical, but the link between shipments of biological material from the United States and the development of Iraq's biological weapons program is more than just an historical footnote.

The role that the U.S. may have played in helping Iraq to pursue biological warfare in the 1980s should serve as a strong warning to the President that policy decisions regarding Iraq today could have far reaching ramifications on the Middle East and on the United States in the future. In the 1980s, the Ayatollah Khomeini was America's sworn enemy, and the U.S. Government courted Saddam Hussein in an effort to undermine the Ayatollah and Iran. Today, oh, how different. Saddam Hussein is America's biggest enemy, America's greatest enemy, America's most dangerous enemy, and the U.S. is said to be making overtures today to Iran.

The Washington Post reported today that the President is expected to authorize military training for at least 1,000 members of the Iraqi opposition to help overthrow Saddam Hussein. The opposition groups include the Kurds in the north, and the Shiite Muslims in the south.

The decision to provide military training to Iraqi opponents of Saddam Hussein would mark a major change in U.S. policy, ending a prohibition on lethal assistance to the Iraqi opposition. It is not a decision that should be undertaken lightly.

Although administration officials told the Post that initial plans called for modest steps that would allow members of the Iraqi opposition to provide liaison to the local population and perhaps guard prisoners of war, the officials did not shut the door on providing training and equipment for more lethal activities.

"Nobody is talking about giving them guns yet," one official was quoted as saying. "That would be a dramatic step, but there are many dramatic steps yet to be taken."

Has the administration adequately explored the potential ramifications of creating ethnic armies of dissidents in Iraq? Could the U.S. be laying the groundwork for a brutal civil war in Iraq? Could this proposed policy change precipitate a deadly border conflict between the Kurds and Turkey? Could we perhaps be setting the stage for a Shiite-ruled Iraq that could align itself with Iran and result in the domination of the Middle East by hard-line Shiite Muslims along the lines of the Ayatollah Khomeini?

These are legitimate questions. They are troubling questions. And they should be carefully thought through before we unleash an open-ended attack on Iraq. We had better think about these questions. We better ask these questions. The administration had better listen and so had the American people.

There are many outstanding questions that the United States should consider before marching in lockstep down the path of committing America's military forces to effect the immediate overthrow of Saddam Hussein. The peril of biological weapons is only one of those considerations, but it is an important one.

Has it been thought out? Has it been discussed? Has the administration said anything to Congress about this, whether or not the administration has explored these questions? Here are the questions. Don't say they were not asked. The more we know now, the better off our troops will be in the future.

Decisions involving war and peace—the most fundamental life and death decisions—should never be rushed through this Senate. I say that again. Decisions involving war and peace—the most fundamental of life and death decisions—they affect your sons and daughters out there, your blood. Such decisions should never be rushed through, never be rushed through or muscled through in haste.

Our Founding Fathers understood that and they wisely vested in the Congress—not in the President, not in any President, Democrat or Republican—the power to declare war.

We are going to discuss this. There is going to be a discussion of it. It is not going to be rammed through all that fast.

Congress has been presented with a Presidential request for authorization to use military force against Iraq. We now have the responsibility to consider that request, consider it carefully, consider it thoroughly, and consider it on our own timetable. I urge my colleagues to do just that and avoid the pressure—avoid the pressure to rush to judgment on such an important and vital and far-reaching and momentous matter.

I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent at the conclusion of the vote on the motion to invoke cloture on the Lieberman substitute amendment, regardless of the outcome, the

Senate stand in recess until 5:15 p.m. today; further, notwithstanding rule XXII, the vote on the motion to invoke cloture on the Gramm-Miller amendment No. 4738 occur at 5:30 today, with the time between 5:15 and 5:30 equally divided and controlled between the two leaders or their designees; and that second-degree amendments to the Gramm-Miller amendment may be filed until 6 p.m. today.

When this vote is completed, we will be in recess until 5:15. Both parties are having conferences. Following that, there will be 15 minutes of debate and then there will be a vote on cloture on the Gramm-Miller amendment.

I would say this has been a long struggle getting to where we are today. I express my appreciation to the manager of the bill, Senator THOMPSON, and of course the person we have heard a lot from in the last several days, my friend, the distinguished senior Senator from Texas, Mr. GRAMM.

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

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair rises before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Lieberman substitute amendment No. 4471 for H.R. 5005, the Homeland Security bill:

Debbie Stabenow, Harry Reid, Charles Schumer, Evan Bayh, Mark Dayton, Jeff Sessions, John Edwards, Jim Jeffords, Joseph Lieberman, Bill Nelson of Florida, Blanche L. Lincoln, Byron L. Dorgan, Jack Reed, Patrick Leahy, Robert C. Byrd, Mary Landrieu, Max Baucus.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule is waived.

The question is, Is it the sense of the Senate that debate on the Lieberman amendment No. 4471 to H.R. 5005, an act to establish the Department of Homeland Security and for other purposes, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Louisiana (Ms. LANDRIEU) is necessarily absent.

The PRESIDING OFFICER (Mrs. LINCOLN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 49, as follows:

[Rollcall Vote No. 226 Leg.]

YEAS—50

Akaka	Byrd	Conrad
Baucus	Cantwell	Corzine
Bayh	Carnahan	Daschle
Biden	Carper	Dayton
Bingaman	Chafee	Dodd
Boxer	Cleland	Dorgan
Breaux	Clinton	Durbin

Edwards	Kerry	Reed
Feingold	Kohl	Reid
Feinstein	Leahy	Rockefeller
Graham	Levin	Sarbanes
Harkin	Lieberman	Schumer
Hollings	Lincoln	Stabenow
Inouye	Mikulski	Torricelli
Jeffords	Murray	Wellstone
Johnson	Nelson (FL)	Wyden
Kennedy	Nelson (NE)	

NAYS—49

Allard	Frist	Nickles
Allen	Gramm	Roberts
Bennett	Grassley	Santorum
Bond	Gregg	Sessions
Brownback	Hagel	Shelby
Bunning	Hatch	Smith (NH)
Burns	Helms	Smith (OR)
Campbell	Hutchinson	Snowe
Cochran	Hutchison	Specter
Collins	Inhofe	Stevens
Craig	Kyl	Thomas
Crapo	Lott	Thompson
DeWine	Lugar	Thurmond
Domenici	McCain	Voinovich
Ensign	McConnell	Warner
Enzi	Miller	
Fitzgerald	Murkowski	

NOT VOTING—1

Landrieu

The PRESIDING OFFICER. Upon reconsideration, on this vote the yeas are 50, the nays are 49. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEAR 2003—CONFERENCE REPORT

Mr. REID. Madam President, I ask unanimous consent the Senate proceed to the consideration of the conference report to accompany H.R. 1646, just received from the House; that the report be considered and agreed to; that the correcting resolution, H. Con. Res. 483 at the desk be agreed to; the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements related to this matter be printed in the RECORD.

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

(The report is printed in the House proceedings of the RECORD of September 23, 2002.)

Mr. BIDEN. Mr. President, I am pleased to present to the Senate the conference report on H.R. 1646, the Foreign Relations Authorization Act for fiscal year 2003.

The bill contains two divisions. Division A is the State Department Authorization Act, and contains authorization of appropriations for the Department of State, and other foreign policy programs, and also contains several policy provisions. Division B contains the Security Assistance Act, which provides authorizations and legal authorities under the Arms Export Control Act and the Foreign Assistance Act.

This bill includes several important items, including the completion of a project that Senator HELMS and I began in 1997, the legislation to authorize payment of our back dues to the United Nations in exchange for reform in that organization. The conference