MEASURE PLACED ON THE CALENDAR—TREATY DOCUMENT 103–21

The PRESIDING OFFICER. Under the previous order, the Foreign Relations Committee is discharged from further consideration of Treaty Document No. 103–21, the Chemical Weapons Convention, which shall be placed on the Executive Calendar.

EXECUTIVE SESSION

CHEMICAL WEAPONS CONVENTION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and proceed to the consideration of Treaty Document No. 103–21, which the clerk will report.

The legislative clerk read as follows:

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

The PRESIDING OFFICER. Under the previous order, the convention shall be advanced through its various parliamentary stages, up to and including the presentation of the resolution of ratification.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, the distinguished Senator from Arizona has a unanimous-consent request, but I want him to withhold it until Senator BIDEN can be here and have an opportunity to object, if he desires.

The PRESIDING OFFICER. Mr. Chairman, I have a couple of other previous orders I can read.

Mr. HELMS. Very well.

The PRESIDING OFFICER. Under the previous order, the Committee on Foreign Relations shall be discharged of consideration of Senate Resolution 75, and this resolution be substituted for the resolution of ratification.

Under the previous order, there will be 10 hours for debate, equally divided between the chairman and ranking member or their designees, and 1 hour under the control of the Senator from Vermont, Mr. LEAHY.

Mr. HELMS. I yield to the distinguished Senator from Arizona.

PRIVILEGE OF THE FLOOR

Mr. KYL. Mr. President, I ask unanimous consent Jeanine Esperne, John Rood, and David Stephens be granted the privilege of the floor for the duration of the day.

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

The Senator from North Carolina.

Mr. HELMS. Mr. President, as the Senate begins final consideration of the Chemical Weapons Convention, the immortal words of Yogi Berra come to mind. Everybody remembers them. ''It's deja vu, all over again.''

If anyone is wondering why JESSE HELMS, Senator from North Carolina, is quoting a New York Yankee, it is because I always liked Yogi. And we have been here before, meaning the Senate. The point being that the Senate scheduled a time certain last September to take up this very same treaty. But, on the day of the scheduled vote, the White House asked to withdraw the treaty. Why? Well, because there were not 67 votes necessary to pass it.

The White House stonewalled and refused to address the key concerns raised by Senators about the treaty, concerns relating to its universality, its verifiability, and crushing effect on business because they had opposed even the most reasonable modifications proposed by this Senator and many others. That is why the treaty was withdrawn last year. So, here we go again, with most of those critical concerns remaining in the treaty: The Chemical Weapons Convention certainly is not global, it is not verifiable, and it will not work. Even its proponents admit it cannot effectively prevent the spread of chemical weaponry.

Time and time again, the administration has portrayed this agreement as one that will provide for a global ban on chemical weapons. I recently read a poll showing that 84 percent of the American people believed that this body should ratify a treaty which would ''ban the production, possession, transfer and use of poison gas worldwide.'' That was the question asked in the poll. I quoted it verbatim. If this treaty accomplished such a ban, I would be the first Senator on this floor, along with Senator KYL, urging its approval. Had the pollster called me at home, I—if I knew nothing about the treaty, as most Americans do not—I probably would have been among the 84 percent.

In any event, more than 8 years ago, at the confirmation hearing of Jim Baker to be Secretary of State, I noted President Bush's statement that he wanted to be able to tell his grandchildren that he, ''was able to ban chemical and biological weapons from the face of the Earth.'' Quote, unquote, George Bush. I remarked at that hearing that I, too, would like to be able to tell my grandchildren that I helped the President and the Secretary of State attain such a goal. And that statement that I made then is just as true today as it was on the day that I made it. But I cannot and will not sign off on a multilateral treaty that accomplishes none—n-o-n-e—none of the goals it purports to address.

I have, on 5 January first days of the Senate, stood right over there by the dais, raised my right hand, and pledged to support and defend our country and its Constitution. I have presided over many hearings dedicated to the careful examination of this treaty. Earlier this month, the Senate Foreign Relations Committee heard testimony by and from four former U.S. Defense Secretaries—Dick Cheney, Cap Weinberger, Jim Schlesinger, Don Rumsfeld, all four urging the Senate not—not to ratify this dangerously defective treaty.

These distinguished Americans are by no means alone. More than 50 generals and admirals and senior officials from previous administrations have joined them in opposing this chemical weapons treaty—convention—call it what you will. And why have all these great Americans urged that the Senate reject this treaty? I will tell you why. Their case can be summarized this simply: It is not global, it is not verifiable, and it will not work. No supporter of this treaty can tell us with a straight face how this treaty will actually accomplish the goals that they have advertised so profusely for it.

The best argument they have mustered to date is, as I understand it, ''Oh, yes, it is defective, but it is better than nothing,'' they say. Or they tell us that ''It creates an international norm against the production of these weapons.'' But, in fact, this treaty is worse then nothing.

But, in fact, Mr. President, this treaty is worse than nothing, for this treaty gives the American people a false sense of security that something is being done in Washington, DC, to reduce the dangers of chemical weaponry when, in fact, nothing is being done with or by this treaty. If anything, this treaty puts the American people at greater risk.

That is why the administration wants to avoid at all costs a real debate on the merits of this treaty. They know that they cannot defend it. They say it is better than nothing. No, it is not. So they have resorted to a number of assertions that simply do not hold up under scrutiny. They have put forward, for example, the ''America as a rogue state'' argument. They have said it over and over again. ''Rogue state, rogue state.''

They say if we don't ratify the CWC, we will be left ''in the company of pariah nations, like Iraq and North Korea,'' who have refused to join. And then they have hit us with, ''Well, everybody's doing it. It is going to go into effect anyhow,'' they say, and have said over and over again, ''with or without the United States, so we might as well go with the flow and sign up.''

Sorry, Mr. President—and I mean the distinguished Senator who is presiding, Mr. President, and I mean the President down on Pennsylvania Avenue as well—sorry, Mr. President, the oath that I have taken five times standing right over there forbids my taking part in such sophistry.

Anyhow, since when did America start letting Belgium and Luxembourg and France and Bangladesh dictate our national security policy? The Senate should decide whether or not to approve this treaty on the basis of whether it is in the national interest of the United States and the American people, not to respond to diplomatic momentum of the moment. Frankly, I take offense at the argument that this administration is making widely and

frequently, that rejecting this dangerous and flawed treaty would make America the moral—get this—the moral equivalent of terrorist states—that means governments, countries—terrorist governments like Syria and Iraq and Libya and North Korea. These pariahs are, at this very moment, manufacturing chemical weapons to use against us. Don't make any mistake about that. That is what they are doing right now as we meet.

We are unilaterally destroying our chemical stockpiles with or without the Chemical Weapons Convention, and I think that such rhetorical blackmail may offend the American people. We will see. The polls are already turning around, by the way.

Mr. President, I made a commitment to the American people that I would bring this chemical weapons treaty to the Senate floor only if it contained all the key protections necessary to ensure that this treaty does no harm, even if it can do no good, and that is exactly what is happening. That is exactly why this treaty is the pending business in the U.S. Senate at this moment.

The resolution of ratification that is now pending before the Senate addresses all the inherent weaknesses of this treaty. With this resolution of ratification, I can vote for this treaty in good conscience, and I would dissuade no Senator from doing the same, obviously. But if those key protections are removed, taken out—and the administration says it is going to happen, they are going to be taken out, they boast—then we should refuse to ratify this treaty for the reasons that we will discuss in greater detail in the hours ahead.

I doubt that there is a Senator in this body who has not heard a great deal about the 28 conditions in this resolution of ratification that have been agreed upon by the distinguished Senator BIDEN, who is the ranking member of the Foreign Relations Committee, the administration, and me. I commend my friend, JOE BIDEN, for his willingness to work with me in good faith to address those issues. I have told him so privately, and I now tell him so publicly. As JOE BIDEN has pointed out, he spent many hours in my office in direct negotiations with me and my staff in an effort to reach some common ground.

Many of the 28 conditions contain commonsense provisions that never should have been contested by the administration in the first place. For example, these conditions, among other things, require the creation of an inspector general. They limit the burden on the American taxpayer. They preserve the Australia Group. They assert the right to use tear gas in combat situations.

Let me tell you something, if they had not yielded on that question about our using tear gas to help our downed pilots escape from the enemy, this treaty would never have come to the floor. Unfortunately, the Clinton administration has made clear—made clear—that it intends to remove five vital protections that Senator LOTT and I and others have included to address the defects of the treaty, or some of them. By stripping those key conditions from this resolution, the administration is asking the Senate to ratify a treaty which, first, will affect almost none of the terrorist regimes whose possession of chemical weapons actually threatens the United States, such as Libya, Iraq, Syria, and North Korea; second, which the administration admits that they can't verify, and they can't verify this treaty. Do you remember what Ronald Reagan used to say? Trust but verify. Ronald Reagan is sort of halfway implicitly credited with this treaty. I think I knew Ronald Reagan as well as anybody. I was the first sitting Senator to support Ronald Reagan's candidacy, and I knew how he felt about treaties because he felt then as I feel now about treaties.

Third, the administration knows that Russia is already violating the chemical weapons treaty, even before it goes into effect, by pursuing an entirely new generation of chemical agents specifically designed to circumvent the CWC, as we call it around this place, violating Russia's existing bilateral chemical weapons agreement with the United States signed some years ago and—I have to use this word—lying about their chemical stockpiles. And we are supposed to trot in and ratify this treaty? Not this Senator. Not this Senator.

Fourth, the administration is supporting a treaty which allows inspectors from China and rogue states, such as Iran, to descend upon American businesses, rifle through the business confidential documents in each of these places, to interrogate the employees of the business, and to remove secret business information and chemical samples whenever they want to.

A law enforcement officer in the United States cannot do that. You have to get a search warrant issued by a court.

Fifth, the administration feels that under articles X and XI, which involve the transfer of dangerous chemicals, chemical manufacturing technology and advanced chemical defense gear to any nation who signs on, including terrorist states like Iran and Cuba and known proliferators, such as Russia and China, the administration said, ''No, no, we can't have that. We can't have that.'' That's what they say. We are going to find out tomorrow, or perhaps earlier, how the U.S. Senate feels about that, because there is going to be a vote on that specific question.

We have protections in the current resolution of ratification which address all of these issues, as I have said before, and while all of these matters are vitally important, the final concluding issue, I believe, is the key to this entire debate. What is it?

The proponents of this treaty have been telling the American people over and over and over again that this treaty will ''ban chemical weapons from the face of the Earth.'' How many times have I heard that by some very good friends of mine in the administration? Let me tell them something, and let me tell you something, Mr. President. With articles X and XI intact, this treaty will, in fact, do the exact opposite. It will, in fact, facilitate the spread of poison gas to the very rogue countries most likely to use it against American citizens.

So I guess the question is, who would give the terrorist crowd in Iran chemical agents and chemical technology that they can use to build chemical weapons? Who would do that? Who would vote to give Iran the secrets to our most advanced chemical defensive equipment, the technology we have designed to protect our troops from poison-gas attack? Not this U.S. Senator. I will never, never vote to do that, because I stood over there five times and said I would not. But that is exactly what the Clinton administration is asking us to do by insisting that we ratify this treaty with articles X and XI intact.

Do not take my word about all of this. Heed the warnings of some people that I believe most Americans admire and respect. Let's take Secretary of Defense Dick Cheney, who served in a previous administration, the Bush administration. Dick Cheney provided written testimony to the Foreign Relations Committee earlier this month. Let me quote him. This is Dick Cheney talking:

> Articles X and XI amount to a formula for greatly accelerating the proliferation of chemical warfare capabilities around the world.

I have heard Dick Cheney make many a speech, but I never before heard him as emphatic in his declaration about anything previous to this.

Mr. President, anybody who wants a road map for how this will work need only examine how Russia has taken advantage of similar provisions in the Nuclear Non-Proliferation Treaty. Today, Russia is using the NNPT to justify, what? To justify Russia's sale of nuclear reactors under a provision known as atoms for peace. Under the chemical weapons treaty, articles X and XI, or poisons for peace provisions, as we call them, Russia and/or China could decide, for example, to build a chemical manufacturing facility in Iran and argue not only that are they allowed to give Iran this technology, but that they are obligated to do it under a treaty, mind you, that a lot of people are advocating that the United States Senate ratify tomorrow before dark.

Worse still, the Chemical Weapons Convention also requires that we share our latest advanced chemical defensive gear with all of these countries. What that means is that, through reverse engineering, Iran could figure out how to penetrate our chemical defense, increasing not only the risk of American

troops being exposed to poison gas but the chances of a chemical attack actually taking place by undermining the defensive deterrent value.

The administration has agreed that it will not give such American technology to Iran. I think they mean it as far as it goes, but this agreement with the President will not stop other countries from doing it. Articles X and XI still facilitate trade in these technologies with more than 100 countries, many, if not most, of which do not share our policy of isolating Iran, don't you see. If they get access to United States defensive technology under the chemical weapons treaty, they will share it with other signatories, like Iran. And they could do so lawfully without violating the treaty. Further, they will share their own defense technology against dangerous dual-use chemicals regardless of what the United States says or does.

What will happen once we put a plethora of chemical and defensive secrets out on the world market? I think you know, Mr. President. It will be only a matter of time, and a short time, before these rogue states which do not sign the treaty will get access to these defensive secrets. Iran will certainly share them with Syria and Libya. And who knows who they will, in turn, share them with.

Ronald Reagan, as I said earlier, said that our policy in arms control—arms control of all types—must be ''trust but verify.'' With the Chemical Weapons Convention we can do neither. So why would we agree to a treaty which would share advanced chemicals and know-how and defensive gear with unworthy regimes? That is precisely the question before the U.S. Senate today.

We can ratify the CWC with these key protections in place. But if the administration insists on stripping them out, taking them out, then they will have invited the Senate to refuse to ratify the chemical weapons treaty. It is up to them. Unless we include protections on these issues, any agreement we have reached on other matters amounts to little more than adding sweetener to hemlock. They may make the treaty easier to swallow, but it remains, Mr. President, just as deadly as ever before and just as injurious to the national security interest of the United States of America.

Mr. President, we know Senators plan to address important aspects of this convention; therefore, at this time I shall defer to my colleagues who may wish to discuss this convention in greater detail, beginning with my distinguished friend, Senator BIDEN.

For the reasons I have discussed and for the reasons that Senators will hear in the hours ahead, obviously, I am strongly urging the Senate to oppose any amendments to strike key protections from the resolution of ratification.

Mr. President, I thank the Chair and I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from Delaware.

Mr. BIDEN. I yield myself as much time as may be necessary.

Mr. President, as my distinguished friend, the chairman of the committee, leaves the floor, let me note that he and I came to the Senate the same year, 1972. I, like he, on five occasions—four here and one in a hospital—raised my right hand and swore to uphold the Constitution. We have both done that, to the best of my knowledge, for the past 24 years.

Let me just say that just as beauty is in the eye of the beholder, security and upholding the oath of office, how to protect and defend the United States of America, is in the eye of the Senator. I do not doubt for one single second that my friend from North Carolina believes what he says, that he does not believe this treaty is in the interest of the United States of America and, by inference, he would not be upholding or defending the Constitution of the United States were he to vote for it, other than with the killer amendments attached to it that would effectively end the treaty.

I think it is important for the listeners to put in perspective a little focus here as to how much verification is necessary to defend our interest and how much is enough and what tradeoffs constitute our interests.

Let me just say that my friend and I have worked together for years and years. As I said, we came here together, 1972. We got elected in the same year. To the best of my knowledge, my friend has not voted on the floor for an arms control agreement, ever.

Although the Senate overwhelmingly passed the START Treaty negotiated by Ronald Reagan—''trust but verify'' Reagan—my friend from North Carolina voted against it because he did not think it was verifiable. Ronald Reagan thought it was verifiable. Ronald Reagan, who said ''trust but verify,'' he negotiated the treaty. He sent it to the U.S. Senate. We voted for it. Senator HELMS did not.

I do not say this as a criticism but an observation. Because if you listen to Senator HELMS, it makes it sound as though he is just like Ronald Reagan. Well, he is not like Ronald Reagan. Bush finally concluded the START I agreement, but it was Reagan who had negotiated it. Reagan supported the START I agreement. President Reagan, I understand, supported the START II agreement. Senator HELMS voted against both of them because he did not believe they were—and I believe he meant it—he did not believe they were in the security interests of the United States of America.

So again the reason I mention it is that you will hear a lot of appeals to authority today. You will hear a number of ad hominem arguments and a number of infallible arguments invoked on the floor of the Senate today by all of us. It is a debating technique. But I think one of my objectives today is going to try to be sort of the truth squad here, to make sure we are comparing apples and apples and oranges and oranges and we remember who did what.

So before the day is over, someone probably will invoke the name of George McGovern, somehow. I do not know how George McGovern will get into this, but I promise you that will happen as evidence that these arms control treaties are bad things that just soft-headed liberals do. Ronald Reagan is no soft-headed liberal.

My friend from North Carolina is a staunch conservative, but he parted company with other staunch conservatives who thought START I, START II and the INF agreements were all bad treaties. We negotiated the INF agreement when Senator HELMS and I were here. Ronald Reagan proposed that. I do not know how he voted on that. But I would not be surprised if he voted against that. And ''trust but verify'' Reagan not only negotiated it, but submitted it.

Mr. President, the debate we are commencing today is not only about a global treaty—it is important, it is global, and it addresses the chemical weapons threat. Quite frankly—and my distinguished friend from Indiana, Senator LUGAR, will speak to this at length because he is so articulate when he does—it is about nothing less than America's leadership in the post-cold-war era. I mean, it really is that simple.

It is above and beyond the issue of merely the chemical weapons treaty, which I will speak to in detail, and why this treaty is such a good treaty. But it is well beyond that. It is well beyond that.

Over the course of two decades and three administrations, the United States of America has led—has led—the world in developing a comprehensive treaty designed to outlaw chemical weapons. Now, less than a week before this treaty goes into effect, with or without the United States of America, the world watches to see what the world's greatest deliberative body is going to do. I mean, it sounds a bit melodramatic, but it is literally that serious. It is that fundamental.

This treaty is going into effect no matter what happens, because the way the treaty is, if over 65 nations signed on to it, it automatically goes into effect 6 months later. So whether we vote for it or not, a total of 74 nations of the world have now said, ''This is a good treaty. We sign on to it. We commit to it.'' So it is going into effect.

What is it going to look like, as the world watches us—and, believe it or not, they watch us; the American public may not watch us a lot here in the Senate but the rest of the world is watching—when the possessor of the one of the two largest stockpiles of chemical weapons in the world, who unilaterally agreed to destroy those weapons—us—when we do not ratify a

treaty that 74 nations have already ratified?

But there are the anti-arms controllers who believe there has never been an arms control agreement that is worth having. I respectfully suggest that the Senator from North Carolina is among them.

He stood up on the floor when we were debating this before it came on the floor, and he said, quoting someone, that America ''has never lost a war, nor has it ever won a treaty.''

Remember, that is what this is about. This dividing line is between people who believe that there is no way in the world you can multilaterally sign on to anything because you cannot trust anybody; the only thing we can trust is ourselves. Therefore, whatever we do, do it unilaterally. Senator HELMS has never voted for an arms control treaty on the floor of the U.S. Senate, including the ones negotiated by Nixon, Ford, Carter, Reagan, and Bush. We have all been here for all those Presidents.

I am not being critical. I just want to make you understand the dividing line here. This is not about the little pieces. This is about whether or not you think we can have any kind of multilateral agreements relative to controlling any kind of arms.

Our friend from Arizona, the distinguished Senator, Senator KYL, introduced a unilateral effort to stem chemical weapons. It was great, but it does not affect any other nations. No one else signed on to it. That is sort of the mantra you get from our friends who oppose arms control—we can do it ourselves. But how can we control the rest of the world unless they are part of an agreement that we are part of?

The real issue is, will we remain in the forefront of the battle to contain weapons of mass destruction, the preeminent security threat of this era, or will we retreat from the challenge and be lulled into believing we can combat this scourge of chemical weapons on our own? I know what the answer to that is. The answer is: We cannot do it on our own. I hope the Senate will answer in the affirmative that we have to do this globally.

But before we face that moment of decision sometime tomorrow evening, we are going to spend 2 days in debate here, and we are going to vote when I move to strike five specific conditions on the Helms proposal that is before us.

As we commence this debate, I think it is instructive to briefly trace the history of the problem of poison gas and the efforts of the world community to address the threat.

Today is April 23. And 82 years ago, almost, today, 82 years ago yesterday, April 22, at 5 o'clock in the evening, a green cloud boiled up out of the east near the town of Ypres in Flanders.

The modern use of chemical weapons had begun. On that day, the use of chlorine gas achieved a significant tactical advantage for the German attackers in World War I. But within 8 days, gas masks were made available to the allies and, thereafter, in World War I, the use of poison gas as a method of warfare was not especially effective as compared to the primary weapons of artillery and machine guns. But ''terrible beauty had been born,'' to paraphrase Yeats—poison gas had been used.

As a weapon of terror, poison gas continued to be exceedingly effective in World War I and had an appalling effect on its victims along the front lines. Soldiers in trenches knew all too well the terror and horror of gas. Wilfred Owen, who was killed in action in 1918 described the terror in his poem, ''Dulce et Decorum Est.'' I would like to read from that poem.

Gas! Gas! Quick, boys!—An ecstasy of fumbling,
Fitting the clumsy helmets just in time,
But someone still was yelling out and stumbling,
And floundering like a man in fire or lime.
Dim through the misty panes and thick green light,
As under a green sea, I saw him drowning.
In all my dreams, before my helpless sight.
He plunges at me, guttering, choking, drowning.
If in some smothering dreams, you too could pace
Behind the wagon that we flung him in,
And watch the white eyes writing in his face,
His hanging face, like a devil's sick of sin;
If you could hear, at every jolt the blood
Come gargling from the froth-corrupted lungs,
Obscene as cancer, bitter as the cud
Of vile, incurable sores on innocent tongues,
My friend, you would not tell with such high zest.
To children ardent for some desperate glory,
The old Lie: Dulce et decorum est,
Pro patria mori.

Translated, it means: It is sweet and fitting to die for the fatherland.

The international revulsion against the use of poison gas in World War I led the United States, once again, to press for an international agreement banning the practice. The result, in 1925, was the Geneva Protocol, which prohibits the use in war of poison gas and bacteriological weapons. For much of this century, with a few exceptions, this norm was honored. During the Second World War, where restraints were hardly the rule, no party saw fit to violate the norm. Even Adolf Hitler obeyed it, although presumably not out of any sense of honor, but out of fear of allied retaliation. Hitler's restraint on the battlefield, unfortunately, did not carry forward to the concentration camps where he used gas to slaughter defenseless innocents, millions of them.

The norm contained in the Geneva Protocol eroded considerably in the 1980's, when both parties in the Iran-Iraq War employed gas during a war of attrition that ended in stalemate. The use of chemical weapons in that war provided no significant breakthroughs on the battlefield, but it did give Saddam Hussein an idea, and that idea was to use poison gas against defenseless civilians in Iraqi Kurdistan following a cease-fire in the war with Iran.

In August 1988, Saddam launched his final offensive against dozens of villages, killing hundreds and causing tens of thousands to flee to neighboring countries. A staff report prepared for the Senate Foreign Relations Committee by our present Ambassador to Croatia, Peter Galbraith, was based on interviews with survivors. He described the atrocities in vivid detail in that report: ''The bombs''—meaning the chemical bombs—''did not produce a large explosion, only a weak sound that could be heard, and then a yellowish cloud spread from the center of the explosion. Those who were very close to the bombs died almost instantly. Those who did not die instantly found it difficult to breathe and began to vomit. The gas stung the eyes, skin, and lungs of the villagers exposed to it. Many suffered temporary blindness. After the bombs exploded, many villagers ran and submerged themselves in nearby streams to escape the spreading gas. Many of those that made it to the streams survived. Those who could not run from the growing smell—mostly the very old and the very young—died. The survivors, who saw the dead reported that blood could be seen trickling out of the mouths of some of the bodies, a yellowish fluid could also be seen oozing out of the noses and mouths of some of the dead. Some said the bodies appeared frozen. Many of the dead bodies turned blackish blue.''

Saddam's outrageous act, unfortunately, prompted only muted response from the world community. One of the few sounds of protest came from this body, where Senator Claiborne Pell, now retired, and the chairman of the committee, Senator HELMS, promptly introduced legislation to impose sanctions against Iraq. The bill sailed through the Senate on a voice vote the day after it was introduced. Unfortunately, the Reagan administration, at that time still operating under the delusion that it could deal with Saddam, denounced the chairman's bill as premature and later succeeded in blocking its enactment in the final days of the 100th Congress—a fact we tend to forget.

Saddam's atrocities, although not a violation of the Geneva Protocol—you know, it wasn't a violation of the Geneva Protocol. That Geneva Protocol only banned the use of chemical weapons in war. This was not a war. So the irony of all ironies is that the first guy to use poison gas since the Italians in Ethiopia in the 1930's, didn't even violate the Geneva Protocol. It was used in the Iran-Iraq War, which was a violation because that was international war.

The Geneva Protocol bans the use of chemical weapons in warfare, and the extensive use of gas in the Iran-Iraq War was banned but still occurred. Ironically, it had a positive effect, Mr. President. They catalyzed the negotiations in the Conference on Disarmament on strengthening the Geneva

Protocol, which were already underway. President Reagan gave the effort a very important push—that is, the effort to deal with containing chemical weapons—during his annual address to the U.N. General Assembly that fall, where he urged the parties to the protocol, as well as other concerned states, to convene a conference to review the deterioration of respect of the norm against the use of chemical weapons.

France obliged President Reagan by hosting a special conference in January 1989. Eighteen months later, Saddam Hussein struck again by invading Kuwait this time. But this time the international community, led by President Bush, reacted forcefully to Saddam's latest outrage. Thankfully, chemical weapons were not used in the gulf war, although Saddam suggested he might do so. And an Iraqi weapons depot containing such weapons was destroyed by coalition forces after the war. Ironically, the only reported exposure to poison gas for allied troops resulted from an Iraqi stockpile that was perfectly legal under international law. The only thing illegal is to use it in international conflict—not to manufacture it, not to stockpile it, and not to use it internally.

The specter that chemical weapons might have been used in the gulf war, however, gave a new urgency to the negotiations on the Chemical Weapons Convention. In May 1991, President Bush who, as Vice President, had first proposed the draft treaty in 1984 on behalf of President Reagan—so Reagan proposed the first draft—President Bush announced several steps that spurred the negotiations to a successful conclusion. Specifically, he declared that the United States would forswear the use of chemical weapons against any state, effective when the Chemical Weapons Convention enters into force. Additionally, the United States committed to destroy all its chemical weapons stockpile.

So I want to get something straight here. Whether or not we are members of this treaty and have the benefits, we are going to destroy our chemical weapons anyway. We have already decided to do that. We have already pledged to do that. President Bush pledged that once the convention went into force, we would also forswear the use, period. The Bush proposal, made at the time, had the desired effect. Within months, the negotiations on the Chemical Weapons Convention were completed. The treaty was signed by Secretary of State Eagleburger on January 13, 1993, 1 week before President Bush left office.

Now, Mr. President, this review of the history of the Chemical Weapons Convention is necessary not only to set the stage for this debate, in my view, but also to rebut the myth which has arisen in some quarters that this is President Clinton's treaty. This is President Bush's treaty and President Reagan's treaty. The treaty was initiated by Reagan, concluded by Bush. This week, we can continue that Republican legacy by giving the Senate's consent to ratification of the Chemical Weapons Convention. So this is not a product of anything other than the intensive efforts on the part of this administration to pass a treaty signed by a Republican President, of which this President did not change a single word, did not have one bit of input on. The only input the present President had is on seeking the Senate's approval. Had President Bush been reelected, it would be real clear that this is a total Republican product, which is a good thing, not a bad thing. The reason I am bothering to say this is, if you listen here, you hear a lot of confusing talk, because some of my Republican friends understandably aren't real crazy about President Clinton, you will hear this talked about, saying the President did this and that, and the President promised this or that. This President had nothing to do with this treaty, zero, nothing. In getting it ratified, he has been tremendous in helping that process. So I do not want anybody getting confused here. If you do not like this treaty, dislike it for a good reason. Don't dislike it because you do not like the foreign policy of Clinton or you do not like the domestic policy of Clinton or you do not like President Clinton. This is a Republican treaty, born and bred.

By the way, I think it is one of their proudest achievements. I think it is a fine thing, and they deserve the credit. But let's not get into these—you will hear these ad hominem arguments this day about this liberal President did this liberal thing; we got sucked in by these all-knowing and smarter nations to get us to do these things with the treaty. Malarkey. Bush and Reagan said we are not going to use any chemical weapons; we are going to destroy our stockpiles; whether there is a treaty, or not, we will put that in the legislation; we are going to destroy our stockpile. They negotiated a treaty and sent it up here. Unfortunately for President Bush, he was not reelected. So it is left on the watch of this President to get it ratified. There are the facts.

The question still remains, though, regardless of who negotiated this treaty, why do we need it? The answer still, in essence in my view, is very simple. Notwithstanding the Herculean efforts of my friend from Arizona, Senator KYL, who is on the floor, we cannot contain the threat of chemical weapons on our own. Let me repeat that. We cannot contain the threat of chemical weapons on our own. I would love it if we could. It should be obvious that our objective of combating the global threat of chemical weapons cannot be met without working in concert with other nations. We may be the world's lone superpower, Mr. President, but that does not empower us to solve the chemical weapons problem on our own.

Mr. President, the convention is quite detailed, as it necessarily must be. This is the treaty. It is quite detailed in its several provisions upon which there will be specific debate over the course of the next 2 days. But, for the moment, let me highlight the reasons why this treaty will advance our national interests.

First, the convention addresses two key flaws in the Geneva Protocol—that is the thing that outlaws the use of chemical weapons in international war—which focused on a single wrong. The Geneva Protocol focused on one thing. It banned the use of chemical weapons in international armed conflict, period. A good thing, but not nearly enough.

The reason we need this treaty: The first reason is the Geneva Protocol doesn't ban the internal use of chemical weapons, and it says nothing about stockpiling the development of or the production of chemical weapons. Today, roughly 20 countries are believed to either possess chemical weapons or have a program aimed at acquiring such weapons. Included on this list are such pariah states as Iraq, Iran, Libya, or North Korea. Under current international law there is nothing illegal about these programs—nothing, zero, nothing illegal about these programs. The Chemical Weapons Convention will make them illegal and thus serve to isolate those who ignore this international norm.

My friends will later point out today and tomorrow that unless these countries all ratify and become signatories, we should not. Let me explain to you why it is equally important that we determine who is inside the norm and who is outside the norm. The convention will provide a moral, if not legal, basis for taking military action against a chemical weapons program that poses a threat to peace whether or not that nation is a signatory to the convention. Let me explain what I mean by that.

Let's assume that North Korea or Libya never entered this convention. Let's assume we enter it and the other nations who have signed it enter it. Let's assume that number, which I think is realistic to assume, gets closer to 100. Let's assume Libya, that we find out, or are able to demonstrate to the world through this international group of inspectors or through our own national technical means, that Libya is producing and stockpiling chemical weapons. Even though they have not signed onto the treaty, let's assume that we conclude that we should take military action to take out that capability—''take out'' meaning bomb it, destroy it, get rid of it—I believe, and I predict that you will see the world community sanctioning that action, at a minimum by their silence and probably with an overwhelming degree of support.

But let my ask it another way. Let's say we don't sign onto this treaty. Libya develops a significant stockpile of chemical weapons. We identify it, show the world, and decide we are

going to take it out. What do you think will happen then? Do you think there is any reasonable prospect the world will coalesce around our effort to protect us and the rest of the world? I respectfully suggest to you that there is not a chance. So this is a significant inhibitor even to those nations that do not sign onto the treaty because it establishes an international norm.

The second reason why this treaty is important is that the Chemical Weapons Convention provides this strict regime for controlling trade in precursor chemicals used in making chemical weapons because chemicals commonly used in industry are also able to be used to produce chemical weapons. The only way to effectively control chemical weapons on a global basis is to provide a strict control and monitoring regarding the commercial trade in these kinds of chemicals that can ultimately produce chemical weapons. Accordingly, the convention provides several mechanisms, including annual reporting by companies and export controls, to track the chemicals. Parties which do not join the treaty will be left on the outside of the system subject to cutting off trade in those certain chemicals, along with other restrictions that the convention will impose.

Failure to ratify the convention will in time impose onerous costs on any chemical industry in any state that does not sign, including our own. In our case, it will be the loss of—at minimum—hundreds of millions of dollars in lost export earnings annually. This financial loss would be a cruel irony because the United States pushed to put these controls in the treaty.

Do you all remember when we were trying to track down who sold the technology and the material to the Iraqis to build their nuclear and/or chemical capability? Remember all of that? We tried to track down, and we tracked down some German companies which had provided the engineering and other companies from France, and other countries had provided some of the material, et cetera.

Guess what? It is important to know who is selling what. Any outfit that signs onto this treaty could not sell without reporting in detail what they sold to each of these countries who are signatories to the treaty. Guess what? If you don't ratify the treaty and you sell certain chemicals abroad, you will be unable to sell them to the countries that have ratified, including our largest trading partners. Chemicals are our single largest export. OK? I know people who think I am a little prejudiced on this because I come from Delaware, occasionally referred to by some facetiously as ''The State of DuPont.'' Chemicals and the chemical industry make up 51 percent of the industrial products of my State. If we do not sign onto this treaty, we are in real trouble because then we can't trade our chemicals. We can't trade certain chemicals, which is our State's biggest export and which produces the most jobs, other than agriculture. We can't trade. We will have tariffs put up against us in other countries.

Why do we do that? We, the United States, President Bush did that because we were so sure that we would sign on and see the wisdom of this. We wanted to make sure that countries who didn't sign on suffered a penalty for not signing on.

So now, if we vote this voice vote which we are going to have after our caucuses, as Senator HELMS proposes, guess what? We kill the treaty and our chemical industry, and the jobs associated with it will be in real trouble.

But remember why that was put in there. It was put in there because we want to track chemical trade. You know everybody is watching the Timothy McVeigh trial. You don't have to be a rocket scientist or an expert in chemicals to know that one of the things the prosecution is trying to do is they are trying to find out whether he purchased any material that could be used to make the bomb. So they are trying to find a chain. They are trying to work their way back. That is the way you stop the building of chemical weapons. If you are going to go make chemical weapons, you need certain chemicals. Countries like Iraq and countries like Libya don't have them. They need to buy them from someplace that manufactures them and then go make their chemical weapons.

So another inducement to prevent the construction of chemical weapons is that we track the material that could be used, components, to make the chemical weapons. If company officials know they are going to be violating the law if they don't record that they sold 10 barrels of such and such, that is one side of the sanction. But they also know that, if they sell it to countries that use it to produce poison gas, and report it, then they are going to be responsible in the world's eyes.

What do you think would happen if we knew today each of the chemical companies around the world that sold to Iraq the components of the chemical weapons that they used against the Kurds? What do you think would happen if we are able to identify company A, B, C, and D? I bet you that there would be a serious change in attitudes on the part of those companies.

There is no reason to believe this, but let's assume that we identified American corporations which had sold the material to the Iraqis to build their chemical weapons stockpiles. I will lay you 8 to 5 that the Senators on the floor of this Senate and Congressmen in the House of Representatives would immediately be introducing legislation to sanction those companies, and those companies would know that was about to happen to them.

So you see the logic here. If you can trace the chemicals being sold to produce the weapons, you inhibit the likelihood that any company will sell that precursor because they don't want to be listed as the company or the nation that helped North Korea build chemical weapons.

Technically, not all trade in the chemicals on what they call schedule 2 of this treaty would be banned immediately if we do not sign on, and trade in schedule 3 chemicals, would also not be banned immediately. But trade between countries that ratify and countries that don't in all of those chemicals that appear in schedule 2 will be banned in 3 years, and in schedule 3, possibly in 5 years. That means that, if we are not signed onto that at the front end or along the way, all those chemicals that have legitimate uses could not be sold for legitimate purposes without the chemical company being at a distinct disadvantage with the competitors in Europe and elsewhere.

The third reason we need the Chemical Weapons Convention is that the United States has already decided by law—voted on in this body—to destroy most of our chemical weapons stocks anyway, a decision jointly made by the Congress and, guess who, ''trust but verify'' Reagan. In the 1980's, President Reagan, after consulting with his military advisers, said, look, these chemical stockpiles, the hundreds and hundreds of tons of chemicals weapons that we have stockpiled in the United States, have little or no efficacy. Our military tells us we don't need them to defend against other nations that use chemical weapons, and we don't need them for offensive purposes and they are unstable, so we are going to independently destroy them. And we passed a law saying you are right, Mr. President Reagan, destroy them.

So think of the irony. We are going to destroy our chemical weapons no matter what, and we may not join a treaty that requires other nations to destroy their chemical weapons.

After the gulf war, President Bush announced that we would destroy the rest of our chemical weapons other than the ones that President Reagan said we are going to destroy anyway. Then President Bush, after the Gulf war, said we are going to destroy anything that is left once we ratify the chemical weapons treaty.

There is a connection here. I used to practice law with a guy who was a very good trial lawyer, Sidney Balick, still a great trial lawyer. He would stand before a jury, teaching me how to do jury trials, and he would look at the jury and say now look, it is very important you keep your eye on the ball here. The issue is whether or not my client robbed the store, not whether my client is a nice guy, not whether or not you would want my client to go out with your daughter, not whether my client is well dressed, not whether my client is nice looking. It is about whether or not he robbed the store. So keep your eye on the ball and connect the dots.

Well, one of the things we have to do is keep our eye on the ball here and connect the dots. One of the reasons

why President Bush said we will destroy the rest of our chemical weapons was to help get ratified this treaty that we were the major architects of—a Republican President. And so because we have already decided to dismantle our chemical stockpiles, this convention we are talking about, this treaty will ensure that other nations do so as well.

As Secretary of State Albright said: ''This treaty is about other people's weapons, not our own.''

Let me repeat that. ''This treaty is about other people's weapons, not our own.'' We are going to destroy our own anyway. This is about other people's weapons. You are going to hear our colleagues stand up and say, you know, we should not ratify this treaty, although it has been signed by Russia, until it is ratified by their Duma, their Congress.

Now, we are going to destroy our weapons anyway. We then do not ratify this treaty. Failure to ratify this treaty then gives Russia the excuse not to ratify the treaty. We will have destroyed all of our chemical weapons and Russia will still have millions of tons of stockpiled chemical weapons. Now, isn't that smart. Isn't that smart. What are we talking about here? This is about other people's weapons, not ours, not ours.

The conclusion that we do not need chemical weapons to protect our military superiority, by the way, is based not on some reckless idealism but on hardheaded pragmatism on the part of the Joint Chiefs. Military leaders like Gen. Norman Schwarzkopf, Gen. Colin Powell, former Secretaries of Defense Harold Brown and William Perry tell us that we do not need chemical weapons to defeat any potential adversary whether or not that adversary is armed with chemical weapons. We can engage in massive retaliation.

This treaty, by the way, is also endorsed by several highly respected veterans organizations. The list includes the Reserve Officers Association, the Vietnam Veterans Association, the Veterans of Foreign Wars, and the Jewish War Veterans of the United States.

Of course, Mr. President, we have to maintain a capacity and capability to defend against chemical weapons, against parties that may choose not to join the treaty or those which do not abide by its norms. But the danger that our forces will face chemical attack will in time be greatly reduced once this treaty is passed. So too will the threat that innocent civilians will be subject to such attacks by rogue states.

The fourth reason we need this convention is because it will greatly enhance our ability to detect and deter chemical weapons programs. Through a detailed accounting procedure and an elaborate regime of on-site inspection, the most intrusive inspection regime of any arms control agreement ever negotiated, the Chemical Weapons Convention will strengthen our ability to ensure compliance.

You are going to hear another argument which I kind of find fascinating. As the Senator from Indiana and I tried to answer each of the arguments of the opponents of this treaty, we realized that by answering one we make their other argument. They argue at cross-purposes. For example, you will hear some stand up one moment and say this treaty is not adequately verifiable. And we say OK, we have an inspection regime that allows you to go into plants in other countries, challenge inspections without notice, et cetera. They say, well, it is not enough. It is not enough. And we say OK, want to do more? They say, no, no, no, no, we can't do more. We don't want to do more. We don't want to verify.

Why don't we want to verify? Because to verify intrudes upon your sovereignty.

So you hear a second argument. Senator HELMS made it. He says, you know, this treaty will allow people to go into the plants of chemical industries in the United States and pharmaceutical industries—and soap manufacturers, which is not true—and steal their trade secrets. So someone is going to challenge the DuPont Co., the international community, saying we think you are making chemical weapons. So this team of inspectors will go into the DuPont Co., they will have us believe, and they will root around the DuPont Co.'s books and look at all their patents and look at everything and steal their trade secrets, take them back to Iraq and now make nylon or make Corfam, which no one uses anymore. And we say, well, to the degree we protect against that, we lessen the ability to verify. And to the degree we increase the verification, we can protect less against that.

The truth is neither are real. There is an entire regime built into this convention that will prevent anybody from being able to steal any trade secrets. But the point is you will hear these arguments. Ask yourself as this debate is going on, if they are really concerned about verification, why do they not want a greater ability to verify. And if they are really concerned about the loss of proprietary business interests and secrets, why do they not understand that they really do not want to verify.

With or without the treaty, Mr. President—this is a key point—whether we sign this treaty or not, the United States intelligence community, the defense intelligence establishment, the CIA, our entire intelligence apparatus, is still going to have the duty to monitor chemical weapons programs in other States. The President will demand no less, nor would we as a Nation. So no matter what we do, we are still going to be attempting to monitor through any means we can what is going on in Iran with regard to chemical weapons or Iraq with regard to chemical weapons, whether or not we verify. But what happens if we do not verify? Well, if we do not verify, then we do not get the ability to go into Iran, a signatory to this convention—and look at their companies, look at their facilities, challenge whether or not they are in fact lying to us. We do not get to be part of that. We have to do it from a distance.

Now, how does that help us? No matter how weak you think the inspection regime is, how are we better off in our ultimate objective—and that is finding and getting rid of chemical weapons programs around the world—how are we better off by not having access to the inspections that we could be part of conducting if we are part of the treaty?

In my view, every single criticism you will hear of this treaty is worse without the treaty. Every single problem you will hear raised is worse for the United States if we are not in the treaty. I will not take the time now to go into all of them but this is just one. Since we have to have our intelligence guys and women find out what other countries are doing, how are we better off when we do not give them the tools that this treaty provides to find out what other nations are doing.

This view is confirmed by George Tenet, the acting director of Central Intelligence, who testified:

> In the absence of the tools that the Convention gives . . . us, it will be much harder for us to apprise . . . the military and policymakers (about) developments.

Developments meaning chemical weapons. Of course, there are going to be cheaters. But the extensive verification regime will surely raise the stakes considerably for cheaters and act as a deterrent.

Ron Lehman, the Director of the Arms Control and Disarmament Agency under President Bush and the Deputy National Security Adviser under President Reagan, stated:

> We do not have the highest confidence that we will detect cheating, but the cheater must still worry that we might. Should we deny ourselves the strategic warning that comes from the detection of indications of chemical weapons activity, even if there is not complete proof? With the inherent difficulties in monitoring chemical weapons activities, we need all the help we can get.

Mr. President, it comes down to a simple question. Given that the treaty will enter into force next week without regard to our action, will we be better off inside the treaty or outside the treaty grouped with the pariah nations? I believe the answer is absolutely clear. We should be on the inside helping to implement the treaty that can be a powerful instrument in containing the threat posed by chemical weapons. It is not perfect, but we should not let the perfect be the enemy of the good. This is a good treaty and the Senate should consent to its ratification forthwith.

Before we go to the final vote on the treaty itself, however, we will have a full day of debate and then tomorrow consider the various conditions contained in the proposed resolution of ratification. As provided for in the unanimous consent agreement reached last week, we will consider two sets of conditions. The first is a group of 28

conditions upon which all the parties have negotiated.

Senator HELMS laid out how long and hard he and I negotiated. I asked him and all opponents, I said list the entire universe of objections you have to this treaty, every single, solitary, conceivable reason to be against the treaty. And after months they listed them all. It came to 33 there was no agreement on. I sat down with Senator HELMS and we worked out agreement on 28 of the 33. Hear what I said, 28 of the 33. I asked every argument of the treaty; list it; let me try to answer it for you—every single one. So the entire universe of objections comes down to 33. We agreed after laborious negotiations on 28 of the 33, leaving five in disagreement.

We are going to, at some point, move to adopt all 28 of those by voice vote. But that leaves the five, the five that are killer conditions.

Mr. MCCAIN. Will the Senator yield for a question?

Mr. BIDEN. Sure.

Mr. MCCAIN. Was the Senator aware that Senator Dole, former majority leader, has just announced his support of the treaty with the changes that have been made, which the Senator from Delaware was able to achieve in this agreement? I think this is a very important expression of support and one that I feel will be very much respected by our colleagues on both sides of the aisle.

Also, I was curious, for purposes of the time, how much longer the Senator from Delaware statement will be?

Mr. BIDEN. I will just take a few more minutes and reserve the remainder of my time. But let me answer the question. As the Senator from Arizona stood up to tell me that, my staff just handed me the news release. I was not aware until he just told me, but it does not surprise me and it pleases me a great deal. You and I worked with Senator Dole for a long time, I for 24 years, and have great respect for him. I was absolutely convinced that the conditions that we agreed on would take care of every conceivable problem he had with the treaty. I think it does for everyone, frankly.

I know my friend from Arizona was very concerned about several provisions of this treaty. He has been deeply involved in the negotiations relating to this, and I think we have taken care of every condition that can possibly be dealt with, without killing the treaty.

The remaining five conditions are conditions that cannot be met and will kill the treaty. So the reason we could not agree to the last five is they are what we call, in the parlance of the Senate, ''killer amendments,'' or ''killer conditions.''

But I am very pleased, as I say, not surprised. Because in all the years I have worked with Senator Dole I have had the greatest respect for him and I have no doubt that he has thought about this long and hard. I am glad to see he has spoken out, now, which is very important.

As I said, as provided for in the unanimous-consent agreement reached last week, we will consider two sets of conditions. The first is a group of 28 conditions, upon which all parties to the negotiations agree. The second is a set of five conditions that remain in disagreement among the parties; these five will be the subject of a separate debate and vote tomorrow.

The 28 agreed conditions are the product of hours of negotiation that occurred in two complimentary phases. The first involved discussions between the administration and a task force of Republican Senators established by the majority leader. The second involved extensive negotiations between the chairman of the Foreign Relations Committee and me.

At this point, I would like to express my personal appreciation to the chairman of the Foreign Relations Committee, and his able staff, for engaging in hours of discussions with me and my staff. Throughout the past few months, we held over 40 hours of meetings. Although we did not always agree—obviously, we would have been here on the floor a lot sooner if we had—the discussions were carried out in good faith, and the Senator from North Carolina was always a gentleman.

I would also like to pause here to express my appreciation to the majority and minority leaders, who spent many hours on this over the past few months, and to the President, the National Security Adviser and his dedicated team, and the Secretary of State, for all their efforts in trying to forge common ground and narrow the issues.

And we have narrowed the issues considerably. The negotiations succeeded in addressing many key issues of concern. Let me elaborate briefly on these conditions.

Among the 28 agreed conditions are the following:

A condition [No. 28] ensuring that fourth amendment rights will be protected by requiring search warrants in cases where consent to search a facility is not granted.

A condition [No. 26] providing for the continued use of riot control agents by U.S. troops to save lives when rescuing pilots or when attacked by both combatants and civilians.

Several conditions which augment existing protections for industry, including: No. 9, which requires an annual certification that the CWC is not significantly harming legitimate commercial activities; condition No. 16, which adds teeth to the convention's provision on protecting confidential business information by withholding U.S. contributions to the Organization for the Prohibition of Chemical Weapons—the body that will implement the treaty—if an employee discloses information that results in financial loss to a U.S. firm; the money will be withheld until the immunity of that employee is waived; and condition No. 18, which prohibits samples collected from U.S. firms from being taken to foreign laboratories, thus reducing the risk of the loss of proprietary information to foreign espionage.

Conditions No. 2, 3, and 4, which hold down U.S. costs under the convention and require establishment of an inspector general for the body that will implement it.

A condition [No. 5] which establishes strict standards for the sharing of U.S. intelligence information.

And a condition [No. 14] which rejects any attempt by Russia to link its own ratification of the CWC to the receipt of U.S. assistance for chemical weapons destruction.

Some treaty opponents have attempted to characterize these achievements as relatively minor. That is hardly the case.

For example, throughout the debate on the convention, opponents have contended that it would violate the fourth amendment prohibition against unreasonable searches and seizures. Though this was never the case, condition No. 28 makes it explicitly clear that search warrants will be required whenever consent is withheld for an inspection.

Similarly, CWC opponents have frequently criticized the Clinton administration's decision to interpret the convention as requiring modifications to U.S. policy, codified in Executive Order 11850 of April 8, 1975, on the use of riot control agents by U.S. forces in certain situations.

Condition No. 26 states, unequivocally, that Executive Order 11850 shall not be altered or eliminated.

In short, many arguments about the treaty's perceived flaws are simply no longer valid in light of the agreed conditions contained in Senate Executive Resolution 75.

Unfortunately, our success in addressing so many concerns has not been enough for some treaty opponents. They insist on voting on five extreme conditions, which, if adopted, will prevent the United States from ratifying the convention or will significantly undermine the convention.

An opportunity to vote on these extreme conditions was coupled with a refusal to give the supporters of the treaty an opportunity to offer any substitutes.

So we will be left with one course—to vote against the conditions offered by the opponents of this treaty. I regret that outcome—but that is the hand we have been dealt.

During the next 2 days, we will debate these five conditions, and at an appropriate time, I will discuss them in detail. Let me now address a few of them briefly.

First, the opponents of the convention will argue that we shouldn't join the convention until Russia, as well as several countries with offensive chemical weapons programs, do so, too. We will have 2 hours of debate on these issues tomorrow, but for now let me just say this: this approach holds American policy hostage to the decisions of other nations, which is not only bad policy,

but it also undermines our claim to international leadership.

Opponents will also say that even if the rogue states join, the treaty won't be worth much because they will cheat. To this charge, there is an easy answer, provided by our Secretary of State: to say that we shouldn't try to make chemical weapons illegal because there will be cheaters, is like saying that we shouldn't have laws because people will break them.

Next, you will hear the argument that we must amend article XI of the treaty, or else it will lead to the end of export controls on dangerous chemicals. This argument is based not only on a flawed reading of the treaty text, but on a willful ignorance of commitments already made.

The CWC is completely consistent with continued enforcement of existing controls enforced by the Australia Group, an informal alliance of supplier countries.

Moreover, the 30 nations that comprise the Australia Group have specifically stated their intention—individually and collectively—to maintain export controls that are equal to, or exceed, those in place today.

Finally, we have added a condition—condition No. 7—which makes clear our interpretation that we may maintain export controls, and which requires the President to certify annually that the Australia Group continues to control the trade in vital chemicals.

Even after all of this debate—and all of the voting—I suspect that the opponents of this treaty will still not be satisfied, even if they succeed in attaching killer conditions. That is because, at bottom, they have a theological opposition to arms control. That is defensible position. I respect it. But I strongly disagree with it.

In essence, opponents of arms control fear that a treaty like this will lull us into a false sense of security. This proposition, I concede, has considerable force. But I am not persuaded.

There is, of course, always a risk that a nation will lower its guard in the face of a reduced threat. But today's debate is not the end of our efforts on the chemical weapons problem. To borrow a phrase from Winston Churchill, it is not even the beginning of the end; it is the end of the beginning.

From this day forward, if we approve this convention, as I sincerely hope we will, both the Senate and the executive must remain ever vigilant against the threat of chemical weapons—and ensure that we have an effective convention.

We have added several conditions to the resolution of ratification to advance this objective. We have made a commitment, in condition No. 11; that requires the Secretary of Defense to ensure that U.S. forces are capable of carrying out military missions regardless of any foreign threat or use of chemical weapons. We have required, in condition No. 10, an annual report on compliance issues. We have established, in condition No. 13, a mechanism for ensuring that the President promptly pursues potential violations that threaten our national security interests.

Aside from these concrete conditions, however, our experience with other arms control agreements demonstrates that the political commitment remains, and that the dangers of complacency are greatly exaggerated.

Nearly 30 years ago, we signed the Nuclear Non-Proliferation Treaty amid predictions that dozens of states would have nuclear weapons within a decade. Today, we are more concerned than ever about the threat of nuclear proliferation, the Non-Proliferation Treaty has been extended permanently, and just a handful of states have the bomb.

During the 1980's, we had constant debates about whether the Soviet Union was complying with its obligations under the Anti-Ballistic Missile Treaty. Not once did we let down our guard against the Soviet threat.

The thesis that we will be lulled into a false sense of security applies not to the convention, but to the alternative: to doing nothing other than strengthening our domestic laws against chemical weapons—which was all the Senate achieved last week in passing S. 495.

Revision of our domestic laws to criminalize possession and stockpiling of chemical weapons is necessary—with or without the treaty. But it is a delusion to believe that merely enacting domestic legislation will suffice to combat an international problem of this magnitude and gravity. Rather, it will take close cooperation by the civilized nations of the world to enforce the new international norm set forth in the Chemical Weapons Convention.

Mr. President, as I stated at the outset, the world—and this is no exaggeration—is watching the U.S. Senate today and tomorrow. They are waiting for the answer to the question, will we, the United States, remain in the forefront of the battle to combat proliferation of weapons of mass destruction? We must answer that in the affirmative. Put it another way, does anybody believe that 74 nations would have signed onto this treaty if they believed the United States of America was not going to support them? We have led people down the primrose path, if in fact we do not sign onto this treaty.

I see that my friend from Indiana, who probably knows more about the chemical weapons treaty than anyone in the U.S. Senate, or maybe anyone in the country, has risen. I will be happy, if he is seeking recognition, to yield as much time to him as he believes he needs.

Mr. LUGAR addressed the chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Indiana.

Mr. LUGAR. Mr. President, I thank my colleague from Delaware for a remarkable speech in favor of the Chemical Weapons Convention, and for his leadership. I thank the distinguished Senator from Arizona, Senator MCCAIN, for a very important announcement. I have in front of me the statement given by Senator Dole at the White House. I point out the context of this statement was a meeting with Senator Dole and President Clinton, in which these two statesmen came together this morning for a very important purpose, namely to say to America, in a unanimous way, the Chemical Weapons Convention is important for our security.

Senator Dole stated:

> Last September, the Senate Majority Leader, Trent Lott, asked me to express my opinion on the Chemical Weapons Convention. In my response, I raised concerns about the Chemical Weapons Convention and expressed hope that the President and the Senate work together to ensure that the treaty is effectively verifiable and genuinely global. They have, and as a result, 28 conditions to the Senate's Resolution of Ratification have been agreed to. These 28 agreed conditions address major concerns.
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> I commend Senator Lott, Senator Helms, Senator Lugar, and many other former colleagues, as well as President Clinton and administration officials for their constructive efforts, is it perfect—no—but I believe there are now adequate safeguards to protect American interests. We should keep in mind that the United States is already destroying its chemical weapons in accordance with legislation passed more than 10 years ago. The CWC would require all other parties to destroy their stockpiles by April 2007.
>
> In addition, the Administration has agreed to a number of provisions dealing with rogue states that remain outside the treaty.

The Senator attaches a letter from President Clinton to Senator Dole dated April 22, 1997, outlining those provisions. And then Senator Dole continues:

> I also understand there is a possibility of an additional agreement with respect to sharing of information. If so, it would further strengthen the treaty. I understand that even with all the added safeguards, not every Senator, for their own good reasons, will support ratification.
>
> As a member of the Senate, I supported the START I, START II, INF, and CFE treaties because they met the crucial tests of effective verification, real reductions, and stability. If I were presently in the Senate, I would vote for ratification of the CWC because of the many improvements agreed to.
>
> Those who may still have concerns can look to Article XVI, which allows withdrawal from the treaty on 90 days notice if it fails to serve America's vital interests. There is little doubt in my mind that if this convention increases proliferation of chemical weapons, it would lead to public outrage which would compel any President to act. The bottom line is that when it comes to America's security, we must maintain a strong national defense that is second to none.

As the Senator has pointed out, we will have in front of the body this afternoon, first of all, all 33 conditions, including 5 that are killer amendments. We must vote those down. We will have, then, before us, 28 agreed amendments that Senator Dole has referenced. We should vote in favor of those, and then proceed in this debate to strike the other 5.

We are here today to discuss the ratification of the Chemical Weapons Convention.

I say to my colleagues that, in performing its constitutional responsibilities with respect to treaties and international agreements, the Senate has to reach a judgment as to whether, on balance, U.S. acceptance of the obligations contained in the treaty serves the national interests of the United States. That phrase, on balance, is important, because in arriving at our judgment, we have to weigh the strengths and weaknesses of a treaty's provisions and decide whether the advantages or benefits outweigh any real or potential costs.

If one believes that the benefits outweigh the costs, one will write and support one kind of resolution of ratification that consents to the treaty while utilizing conditional language to clarify or minimize perceived weaknesses. However, if one believes that the costs of U.S. participation outweigh the benefits, one will write and support a very different kind of resolution of ratification.

It is my belief that the Chemical Weapons Convention, on balance, is in the national security interests of the United States, and thus I believe the Senate should ratify a resolution of ratification which allows the United States to deposit its instrument of ratification and become a state-party to the CWC.

As Senator BIDEN pointed out, this international treaty was negotiated by Presidents Reagan and Bush and was signed by Secretary of State Eagleburger in January 1993—just before George Bush left office.

Senator BIDEN was generous in pointing out that these were two Republican Presidents, Secretary Eagleburger was a Republican Secretary of State. It is appropriate that Senator Dole, as Republican candidate for President, join with President Clinton today, once again affirming that the CWC is in the best national interests of our country.

THE NEED FOR THE CWC

Mr. President, we need as many tools as possible to combat the proliferation of weapons of mass destruction, given the fact that many countries of concern have the capability to manufacture these weapons. We need this treaty as a global norm whereby nations foreswear the use of their domestic capabilities to produce chemical weapons. In this regard, the CWC is the most comprehensive nonproliferation and arms control treaty in history and is a critical supplement to the Geneva Convention of 1925.

The CWC fills the gap that the Geneva Convention does not address. While, the Geneva Convention bans the use of chemical weapons as an instrument of warfare, the CWC forbids even the mere possession of chemical weapons.

It prohibits member-states assistance to any chemical weapons program, thereby helping to cut off supplies to rogue nations such as North Korea and Libya who are not likely to subscribe to the CWC. Some have criticized the treaty because they say participation will not be truly global. I certainly recognize that a number of problem countries are not likely to join the CWC. So be it. The CWC will serve to isolate them in the international community and compel participating countries to restrict chemical trade with them. Participating countries who may now support the chemical weapons proliferation projects of outlaw states in a variety of ways will be obliged to terminate any such help as soon as the treaty enters into force. In this context, it is important to note that the CWC prohibits any assistance to another country's chemical weapons program—not just chemical transfers.

As Gen. Norman Schwarzkopf has said, ''We don't need chemical weapons to fight our future warfares. And frankly, by not ratifying that treaty, we align ourselves with nations like Libya and North Korea, and I'd just as soon not be associated with those thugs in that particular matter.''

Some of my colleagues have argued that we shouldn't ratify the CWC until the Russians do so. I disagree. United States ratification of the CWC will put pressure on Russia to follow suit since they don't want to be outside of the broad consensus of the international community. However, even if the Russians fail to ratify, the treaty still serves United States national interests because we have already made a unilateral decision never to deploy CW, even if such weapons are used against us. This treaty commits other nations to do what we have already done. It will make less likely that U.S. forces will face chemical weapons in future confrontations.

On April 4, 16 retired generals and admirals wrote to President Clinton supporting the Senate's consent to ratification of the CWC. Gen. Colin Powell, Gen. Norman Schwarzkopf, Gen. John Vessey, Adm. William Owens, Adm. Stansfield Turner, Adm. Zumwalt and others joined Gen. Brent Scowcroft and the current Joint Chiefs of Staff in supporting the treaty. They wrote:

> Each of us can point to decades of military experience in command positions. We have all trained and commanded troops to prepare for the wartime use of chemical weapons and for defenses against them. We all recognize the limited military utility of these weapons, and supported President Bush's decision to renounce the use of an offensive chemical weapons capability and to unilaterally destroy U.S. stockpiles. The CWC simply mandates that other countries follow our lead. This is the primary contribution of the CWC: to destroy militarily-significant stockpiles of chemical weapons around the globe.

Our military leaders concluded:

> On its own, the CWC cannot guarantee complete security against chemical weapons. We must continue to support robust defense capabilities, and remain willing to respond—through the CWC or by unilateral action—to violators of the Convention. Our focus is not on the treaty's limitations, but instead on its many strengths. The CWC destroys stockpiles that could threaten our troops; it significantly improves our intelligence capabilities; and it creates new international sanctions to punish those states who remain outside of the treaty. For these reasons, we strongly support the CWC.

The CWC will compel other countries to pass domestic laws criminalizing all chemical weapons related activities on their soil and thereby give them an effective tool to deal with terrorists. In this regard, it is interesting to note how quickly Japan ratified the CWC after the poison gas attack in the Tokyo subway.

Mr. President, I understand well that some have argued that the treaty is not completely verifiable and therefore not worthy of U.S. ratification. No—the treaty is not 100 percent verifiable and we who support the CWC do not argue that it is a perfect and infallible instrument. We all recognize that a dedicated proliferator may be able to conduct a clandestine chemical weapons program and not be discovered. But that's not a fair test for an up or down vote on ratification. The CWC will complicate life for proliferators by making access to technical assistance and supplies more difficult and expensive to acquire. The treaty's verification provisions cover every aspect of a chemical weapons program from development through production, stockpiling, transfer, and use.

The CWC provides the necessary incentives for states who are considering entering the chemical weapons business to refrain from so doing. It provides an incremental yet substantial step forward in the fight against the proliferation of weapons of mass destruction.

The allegation that the treaty is unverifiable is ironic, given fearmongering from the same quarters about the treaty's allegedly draconian inspection and reporting requirements. How can it be both too tough and not tough enough? How can critics who supported, during the negotiations of the CWC, an inspection regime based on the principle of ''any time, anywhere'' now argue that the present inspection regime is too intrusive.

WHY MUST WE RATIFY NOW

Mr. President, we should not let the CWC enter into force without United States participation. In fact, I regret that we have waited as long as we have to debate this treaty. On April 29, 1997, this multilateral convention will enter into force whether the Senate has acted or not.

What are the consequences for the United States if it is not a party to the CWC when it enters into force.

First, instruments lost: First of all, without the CWC, there is no basis on which the United States can ''bound'' the chemical weapons problem. The CWC will help diminish the challenge in a way that allows the full panoply of policy tools—export controls, economic sanctions, diplomacy, chemical defense, and military options—to be brought to bear against the real miscreants such as Syria, Libya, and North Korea.

The existing 1925 Geneva Protocol only bans use; there are currently no

restrictions on anything related to chemical weapons short of use including development, production, storage, deployment, or transfer. Iraq demonstrates that states interested enough to develop and produce chemical weapons have a reason to use them and would likely do so, regardless of the Geneva Protocol. There is no certainty that states who may have—undeclared—CW stockpiles will be under obligation to destroy them, as the United States has already unilaterally decided to do.

Without the CWC the international norms against chemical weapons will erode, increasing the likelihood of their use. Despite the emphasis on power in international politics, norms do count. They provide the standards by which acceptable behavior of states can be judged and serve as the basis for action by the international community when certain behavior is deemed unacceptable. Strong global norms against chemical weapons could be one factor shaping the decision not to pursue them by countries who might consider exploring the option.

U.S. credibility in pushing its specific positions in arms control forums will be undermined. Why should other countries pay attention to the United States and seek to accommodate its concerns if the United States is not going to support the final product at the end of the day? The standards on which the CWC is based are those put forward by President Reagan and President Bush. The balance of intrusion and constitutional and commercial protection displayed in the CWC is the end product of a long and deliberate debate by both Republican administrations in an attempt to reach an appropriate balance.

Second, a credibility problem: If the United States is not a state party to the treaty, the United States will have no legal basis—no legal basis—to take actions against other nonstates parties. On what grounds, for example, could we contemplate action against Libya for proceeding with the Tarhuna facility if it decided to proceed? Nor would the United States have any moral grounds for criticizing the decision of others to stay outside the treaty.

U.S. credibility and leadership will be undermined, not just on arms control but more broadly. Washington will have to deal with a perception that already exists but that nonparticipation in the CWC will only reinforce: that the United States bullies countries into assuming obligations that it is not willing to assume itself. Such views only strengthen the sense that others already have that the United States sees itself as not bound by the constraints it tries to impose on others. In a world that increasingly requires cooperation to accomplish major objectives, such a perception is damaging to the point of endangering vital American interests.

Third, lacking U.S. leadership: If the United States is not a state party to the CWC when it enters into force on April 29 we will have no role in the governing body of the CWC. This is important because while the procedures for conducting the OPCW's business will be agreed on paper, how they are in fact translated into actual practice will be the real point at which precedents are set and work habits established.

The United States will not have a seat on the executive council, the critical policy decisionmaking group of the CWC. The United States will not have any representation in the inspection regime. We will have no access to the information that inspectors and others accumulate on chemical weapons use, proliferation, and terrorism.

The information that will be provided to the governing body through declarations and inspections will be important in its own right. Even more important, when it is put together with other information available to our intelligence community, it will help to provide a more accurate picture of a state's activities which may provide leads to uncover illicit, noncompliant activities. Not being a part of the governing body will mean that this valuable source of information for the intelligence community will be closed off.

Why do the critics wish to hamstring our own intelligence community and deny it the additional pieces of information that could prove critical to an intelligence determination and finding that bears on threats to our national security interests.

Fourth, U.S. industry will pay the price: On April 29 the clock will start on the 3-year period after which trade in schedule 2 chemicals—those which can serve as direct pre-cursors to chemical weapons—with nonstates parties will be cut off. The U.S. chemical industry estimates that as much as $600 million in overseas chemical trade could be at risk. In fact, the impact of the cutoff is likely to be felt sooner than the 3 years, as trading partners begin to change their trading patterns—that is, shifting to new suppliers—in anticipation of the cutoff.

If the United States is not a party to the CWC, it will also play no role in the OPCW's decision regarding whether or not the trade cutoff will be extended to schedule 3 chemicals—dual-purpose chemicals which can be used in chemical weapons—a decision that will likely be made soon after entry into force. Given the chemicals on schedule 3, if the decision is made to extend the trade cutoff, the economic impact on the U.S. chemical industry could be enormous, making the $600 million look like small change.

Some critics have sought to intimidate American business by spreading unsubstantiated rumors and fears that ''Iranian inspectors are coming'' or that proprietary information will be at risk. But those large firms that might, in fact, be inspected support the treaty and the small firms have determined it will have no impact on them.

THE DEFENSE SECRETARIES

Many of the arguments of CWC critics were crystallized in the comments of three former defense Secretaries.

They repeat several old arguments used by other critics of the CWC.

Many critics act as if this is the first time these concerns have been expressed and that Members have not taken actions to deal with them. How many of these critics are familiar with the resolution of ratification passed out of the Committee on Foreign Relations last year for example? How many of them are familiar with the draft resolution of ratification that has been under negotiation this year? A resolution of ratification is precisely the vehicle through which contentious matters of interpretation are taken up and conditions added to conform U.S. domestic law to U.S. interpretations.

First, the complacency argument: One old argument is about the complacency situation; namely, that the CWC would lull the country into a false sense of security and a tendency to neglect defenses against chemical weapons.

This is a matter of political will at home in the United States; it has nothing to do with the treaty. This is what we pay Secretaries of Defense to guard against. This is what we are paid in the U.S. Senate to guard against.

Perhaps I have more faith in the U.S. Senate's willingness to carry out its responsibilities under the Constitution than do critics of the treaty. There is nothing inevitable about arms control agreements contributing to a lessened perceived need and therefore support for defenses against such threats. But there is something wrong with the notion that by allowing our potential adversaries to have chemical weapons, we are sure to be reminded to defend against them.

It may be that the Defense Department was willing to reduce its request in 1995 for funds for chemical defenses, but the Congress has never had any problem in the past in plusing up administration requests for defense situations. Funding for ballistic missile defense is a perfect example. Indeed, Secretary of Defense Cohen recently indicated that an additional $225 million is being requested for chemical defenses.

One should have little sympathy for the complacency argument employed against the CWC. Rather than whining about complacency, Congress ought to do its job and authorize and appropriate what funds are necessary to provide for a robust chemical defense capability.

By the same token, concerns are expressed about a possible reduction in the priority accorded to monitoring emerging chemical weapons threats. That is not the way recent budget requests from the intelligence community came across. Moreover, the community itself wants the CWC precisely because it will provide additional tools to the community to monitor the chemical weapons situation. Again,

Congress has every ability to add or shift funds to ensure that CWC monitoring remains a funding priority.

In fact, one of the conditions included in the resolution of ratification deals with the preservation of robust defenses against chemical weapons. It states the necessity for preserving and further developing robust defenses against chemical and biological weapons. Increased readiness must be emphasized at the highest levels and supported with the necessary funding within the executive branch of the Government and the United States Armed Forces.

Second, Article XI: Some critics have placed much emphasis on the so-called poisons for peace argument—namely, that the CWC will obligate member states to facilitate transfers of CWC-specific technology, equipment and material to member states of the convention. Further, they charge that the treaty commits new member states not to observe any agreements that would restrict these transfers.

It is tragic that American critics of the CWC would swallow the Iranian interpretation of Article XI rather than that of the American delegation to the convention, and the interpretation of the Commerce Department, and the U.S. chemical industry. Why are these critics so intent on giving credibility to the Iranian interpretation? Why do they wish to align themselves with the rogue states on this issue?

To be sure, the issue of assistance, Article XI, was one of the more contentious issues during the end game of the CWC negotiations. The more radical, nonaligned states, led by Iran, demanded that this provision be interpreted so as to require the elimination of any export controls in the chemical arena for states parties in good standing.

But the United States and others rejected that argument and maintained that their interpretation of article XI did not require them to do so, that mechanisms such as the Australian Group were legitimate under the CWC, and that the work of the Australia Group would continue. The members of the Australia Group did propose to review their practices and procedures at some undefined time in the future, but only after they had a period of experience with the treaty in force, during which they could judge whether that practical experience might justify a reconsideration of their export controls.

The basic CWC obligation is contained in article I—this is, to ''never under any circumstances: . . . (d) To assist, encourage or induce in any way, anyone to engage in any activity prohibited . . .'' And it means what it says. This basic obligation overrides any requirement—any requirement—to facilitate trade or technical cooperation when there is a proliferation concern.

There is nothing automatic about the assistance provisions of article XI, and it will certainly not mean that the floodgates will be open for the exchange of chemical materials and equipment with rogue states, as critics have stated. It merely affirms the right of the parties to engage in chemical commerce for peaceful purposes, that is, industrial, agriculture, research, pharmaceutical, medical or other pursuits as they do today. A state with chemical weapons aspirations has no treaty right to anything that furthers those aspirations. And nothing in the treaty requires the elimination of our export controls on chemical materials and equipment. The United States and other Western countries have made clear to the Organization for the Prohibition of Chemical Weapons, the OPCW, the governing board, as well as all states parties that the provision in question does not entail any obligation to eliminate existing export control regulations on chemical material and equipment.

One condition in the resolution of ratification deals specifically with the issue of interpretation over article XI. It states in part that: ''the various provisions of the CWC preserve the right of State Parties to maintain or impose export controls for foreign policy or national security reasons, and that nothing in the Convention obligates the United States to accept any weakening of its existing national export controls.''

If, as the critics state, the CWC would likely leave the United States more, not less, vulnerable to chemical attack, then the blame resides with political leaders in the United States, not with the convention. The treaty in no way constrains our ability as a nation to provide for a robust defense against chemical weapons or to impose or maintain export controls for foreign policy and national security reasons.

Third, Dumbing Down of Intelligence: There is also the charge that, if the United States is not a CWC participant, the danger is lessened that American intelligence about foreign chemical programs will be dumbed down or compromised. This is a variation on the politicizing of intelligence argument taken to the extreme. Again, any dumbing down of intelligence has nothing to do with the convention. Moreover, a willingness to act in the face of noncompliance by other signatories is a political decision, not an intelligence decision. If critics want to fault American political leadership, fine, but this has nothing to do with the strengths or weaknesses of the convention.

Fourth, Costs and the Constitution: Fourth, various critics worry about the costs associated with U.S. participation in a multilateral regime and cite the outlandish estimate of $200 million annually. This hardly squares with the estimates offered by the Congressional Budget Office and fails to take account what the administration has actually requested for fiscal year 1998—namely $46 million. And quite predictably, the critics drift from the cost charge into the constitutional charge that U.S. participation in the convention could leave U.S. citizens and companies vulnerable to burdens associated with reporting and inspection arrangements, jeopardize confidential business information, and other charges.

Industry is expected to pay its own costs associated with reporting and receiving an inspection. Industry does not contribute to the cost of carrying out international inspections. Inspection costs are covered in the OPCW budget to which the U.S. Government will contribute. Annual costs to industry are expected to be about $4 million in the first year and less in subsequent years. Inspection costs are not expected to be more than an EPA or OSHA inspection—this means no more than $10,000 per inspection and probably much less. Based on practice inspections, no shutdown of facilities is anticipated, which would be an important cost factor.

U.S. industry would not support the CWC, as it does, if it posed significant risks to confidential business information. Protections against the loss of confidential business information are incorporated into the CWC and the administration's proposed implementing legislation. Industry has worked intensively on both to ensure these protections are adequate.

Unlimited inspector access is not required. For routine inspections, each facility has the right to define the degree of access through a negotiated facility agreement and may thus protect sensitive information. Furthermore, routine inspections can be anticipated, providing ample time for preparation.

In challenge inspection scenarios access to the site must be provided 120 hours after a request for a challenge inspection is received by the OPCW. Once access is granted, the principles of managed access apply. Under managed access, the inspected facility can negotiate the degree of access on the spot, and, while obligated to provide alternative means to satisfy concerns about compliance, the facility is not obligated to allow inspectors to go anywhere they like.

Allegations that the CWC will require violations of the Constitution are wrong. The proposed implementing legislation provides for search warrants if routine or challenge inspections must be carried out without consent. So does the resolution of ratification. The CWC also allows the United States to take into account constitutional obligations regarding searches and seizures and proprietary rights in providing access under challenge inspections.

When CWC negotiations commenced, President Reagan wisely decided to include representatives from the American chemical industry in the formation and evolutionary decisionmaking process of U.S. negotiating positions. Thus, the American chemical industry has participated every step of the way in the development of the convention and played a major role in crafting the language with regard to constitutional

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 noncompliant 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 chemical 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 Staes 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

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 Nonproliferation 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 additional 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 detect 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 ''military 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 Shalikashvilli 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

United States an important baseline from which to work. Routine inspections will make it more difficult and expensive for declared facilities to be used in illicit chemical weapons activities. And challenge inspections pose further risks to would-be violators, while giving the United States and other countries the opportunity to have the Organization for the Prohibition of Chemical Weapons seek further indications or hard evidence of violations.

U.S. information can go a long way toward helping the organization to mount effective inspections. That is what the United States did with the International Atomic Energy Agency in North Korea, and it worked. An important agreed condition—condition No. 5—has been worked out with Senator SHELBY, chairman of the Senate Select Committee on Intelligence, to require that intelligence sharing will be conducted only after U.S. information is sanitized to minimize any risk to sensitive sources or methods. That is what the United States does currently, and what it should continue to do.

With the United States an original member of the organization, we will be able to work for effective inspection procedures and to provide the organization the information it needs to maximize its effectiveness. The organization's effectiveness will aid our own agencies, in turn, to monitor activities that are of major concern to U.S. military leaders and policymakers. That is why the CWC has been endorsed by every Chairman from the Joint Chiefs of Staff over the last 20 years.

As David Kay former chief U.N. inspector in Iraq, Ronald Lehman, former Assistant Secretary of Defense and Director of ACDA, and James Woolsey, former Director of Central Intelligence, wrote recently in The Washington Post, ''It is hard to understand why critics of the CWC believe it is to the advantage of U.S. forces—who one day may have to face an adversary armed with chemical weapons—to let such development proceed unhindered by vigorous inspection. Such inspections can slow a chemical weapons program, make it more expensive and less effective and can develop the usable evidence needed to convince doubting allies.''

There is no such thing as perfect verifiability in a treaty, but the CWC provides useful tools. As Woolsey, Lehman and Kay put it ''the CWC offers at the outset verification tools that go beyond those of other arms-control treaties.''

We should all support giving the U.S. Intelligence Community the necessary resources to monitor worldwide chemical weapons activities—and, in the process, to monitor CWC compliance—as well as possible. The CWC will aid in that monitoring, as well as in focusing international sanctions on any violators. All of these gains for our Intelligence Communities' ability to monitor global chemical weapons proliferation will be lost unless this condition is struck from the resolution of ratification. The national security requires a vote to strike this condition.

CONCLUSION

In conclusion Mr. President, the Defense Department's position on the CWC is simple. As offensive weapons, chemical munitions are overrated. Therefore, keeping them in our arsenal offers scant military advantage. DOD does not believe that chemical weapons are needed for deterrence. They believe there are plenty of other options.

We have heard a good deal of discussion about the verification problems associated with the CWC, and past and current intelligence officials will be quoted in and out of context on Intelligence Community's confidence levels. But let us remember that the Intelligence Community has to monitor the chemical-weapons capabilities of foreign powers in any event. In open and closed briefings and hearings over the past 3 years, the community has been consistent in saying that its ability to monitor various provisions of the convention is severely limited. But the community has also been consistent in arguing that the convention will provide it with additional tools to go along with national technical means in monitoring developments in chemical-weapons states, something that the intelligence community must do whether there is a CWC or not. The intelligence community believes that, the convention is a net plus to its efforts to monitor the activities of chemical-weapons states around the globe.

The CWC is not without blemishes. The United States had to make concessions in a negotiating process that involved nearly 40 states representing all possible world views. These are not easy to accept in a U.S. political process that has a hard time accepting tradeoffs in bilateral negotiations and, increasingly, even in domestic political bargaining. The Senate should not be surprised that the treaty is not perfect. But that is not the point. The proper question is whether, on balance, does the CWC serve the national interest.

For some, no arms control treaty is good enough. Indeed, the very high stakes of the cold war and the fact that arms control cheating by the Soviet Union represented a potential threat to the survival of the United States led to a legitimate focus on treaties with high standards, especially for verification and the ability to detect even minor violations.

The cold war, is over, and treaty requirements must suit U.S. national interests as they exist today. Despite the CWC's tradeoffs, it is widely supported by U.S. industry, the U.S. military, and nonproliferation experts. They know it not to be a panacea or perfect—but nonetheless clearly in the service of U.S. military, economic and political interests. They also know it to be better than the alternative defined by CWC opponents as reliance on chemical weapons retaliation in kind and unilateral enforcement of export controls or other punitive actions. This alternative is a recipe for broader proliferation extending well beyond chemical weapons. The United States is much better served by a choice to help lead a cooperative international effort to manage the problem than by one that manifestly has not worked as these weapons have proliferated in recent decades. Senators must look beyond the shouting match between the two camps of treaty supporters and treaty opponents and look at arguments based on the national interests as they exist today.

Failure to ratify the CWC this year would harm that national interest and accentuate the image among both friends and foes of a rudderless America unable to chart a course on uncertain new seas. A belief that the United States is unreliable and uncooperative—or simply confused—will harm not just the chemical arms control effort but nonproliferation goals more broadly. If the United States drops the CWC ball, the consequences for stable alliance relationships, for U.S. security in an era of rapid technology diffusion, and for a free and open trading regime will prove far reaching.

The Congress completed legislation last fall on how best to respond to terrorism and to the threats posed by the proliferation of weapons of mass destruction, including nuclear, biological, and chemical weapons and materials. The so-called Nunn-Lugar-Domenici legislative response to these threats passed the Senate unanimously and was agreed to in the House-Senate conference on the DOD authorization bill. If the Senate were to vote against ratification of the CWC, we would in effect be taking a large step backward in our positive efforts to work toward denying our enemies the tools of destruction they desire and protecting U.S. citizens from acts of terror and war.

Mr. President, the time has come for us to join the growing worldwide consensus to ratify the treaty we invented. I believe that we are far better off with the CWC than without it. We have always been the world's leader in fighting the proliferation of weapons of mass destruction and we must not recoil from that challenge at this critical juncture. Further, we must not betray the American chemical industry who worked with us for so many years to develop this treaty and who would be badly disadvantaged in world markets if we fail to act responsibly. We asked them for their help; they gave it willingly and now face the possibility of an international Mark of Cain if we fail to ratify. The time is now. The choice is clear.

I urge my colleagues first, to support the motions to strike the five conditions in disagreement in the resolution of ratification, second, to then vote yes to approve the resolution of ratification and consent to treaty ratification, and third, to then proceed quickly to

pass the domestic implementing legislation that is a necessary companion of this treaty.

The Chemical Weapons Convention offers the United States one more tool in our arsenal to help prevent, deter, or to manage the threat posed by chemical weapons. It is up to the Senate, after weighing the benefits and costs of the Convention, to determine whether the CWC tool, on balance, provides major value-added to the United States in achieving that objective. I believe it does.

The PRESIDING OFFICER. We have a previous order to recess.

Mr. HELMS. Mr. President, before you rule, I would like to be heard.

The PRESIDING OFFICER. Will the Senator from Indiana yield?

Mr. LUGAR. Is the order that the Senate should recess at 12:30? Has that been adopted earlier?

The PRESIDING OFFICER. Yes. Under a previous order, we would recess from 12:30 to 2:15 for the policy luncheons.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I ask to be recognized for at least 10 minutes so that the distinguished occupant of the chair can be recognized to make a statement. While we get a replacement for him in the chair, let me say this before the matter gets too cold. The distinguished Senator from Indiana, in good faith, I know, raised a number of concerns about the Chemical Weapons Convention in terms of this. Senator Dole, in a letter dated September 11, 1996, contrary to what the distinguished Senator from Indiana said, said the following:

> To achieve this goal, a treaty must be effectively verifiable and genuinely global—encompassing all countries that possess, or could possess, chemical weapons. If the Chemical Weapons Convention now before you achieves this goal, I will support it.

Now, of course, Senator Dole wrote that letter in good faith, and I suppose that the administration has assured him, incorrectly, that all of his concerns have been taken care of.

In any case, I ask unanimous consent that the letter written by Bob Dole on September 11, 1996, be printed in the RECORD at this point.

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

SEPTEMBER 11, 1996.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR TRENT: Thank you for seeking my views on the Chemical Weapons Convention which will soon be considered by the United States Senate. You do indeed have an important national security decision before you and I am pleased to offer you my views.

I am sure that I share with all my former colleagues—on both sides of the aisle—a strong aversion to chemical weapons. They are horrible, and there should be no doubt that I am unequivocally opposed to their use, production or stockpiling. Their widespread use during World War I provoked an outcry which resulted in the Geneva Protocol of 1925 which bans the use of chemical weapons in war. Unfortunately, the Geneva Protocol has not prevented all use of chemical weapons, and we have been reminded just in the last week of the dangers presented by tyrants such as Saddam Hussein.

In fact, Saddam used chemical weapons in the Iran-Iraq War and against his own Kurdish population in the North. And, lest anyone think this is no concern of ours, there is a distinct possibility that American troops were exposed to Saddam's chemical weapons during the Gulf War. The United States needs and wants a treaty which effectively bans chemical weapons from every point on earth. To achieve this goal, a treaty must be effectively verifiable and genuinely global—encompassing all countries that possess, or could possess, chemical weapons. If the Chemical Weapons Convention now before you achieves this goal, I will support it. If it does not, I believe we should pass up illusory arms control measures. As President, I would work to achieve a treaty which really does the job instead of making promises of enhanced security which will not be achieved.

I supported the START I, START II, INF and CFE Treaties because these agreements met three simple criteria established by President Reagan: effective verification, real reductions and stability. In evaluating the Chemical Weapons Convention, I suggest you apply these same criteria, adapted to these particular weapons and to the post-Cold War multi-polar world. Thus, I have three concerns. First, effective verification: do we have high confidence that our intelligence will detect violations? Second, real reductions, in this case down to zero: will the treaty really eliminate chemical weapons? Third, stability; will the treaty be truly global or will countries like Iraq, Iran, Syria, Libya and North Korea still be able to destabilize others with the threat of chemical weapons?

Furthermore, I believe it is important that the Senate insure that the implementation of this treaty recognize and safeguard American Constitutional protections against unwarranted searches.

It is my understanding that the Senate will have the opportunity to address these matters in debate and, perhaps, in amending the Resolution of Ratification. It is my hope that President Clinton will assist you in resolving them. If we work together, we can achieve a treaty which truly enhances American security.

Best regards,

BOB DOLE.

Mr. HELMS. Mr. President, in connection with that, statements were made about the chemical industry losing $600 and $800 million. It is a moving target. They say several things at one time.

I ask unanimous consent that this statement correctly altering the misstatements already made, and probably will be reiterated, be printed in the RECORD at this time.

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

THE UNITED STATES CHEMICAL INDUSTRY WILL NOT LOSE $600 MILLION IN ANNUAL EXPORTS FROM U.S. NONRATIFICATION

The argument that U.S. chemical companies will be subject to trade sanctions and will have their exports dramatically harmed if the U.S. does not ratify the CWC is patently untrue.

The Chemical Manufacturers Association (CMA), which has been making this argument, has contradicted itself time and again, calling into serious doubt the credibility of its claims.

Throughout the fall of 1996, the Senate was bombarded with claims from the Administration and CMA that $600 million in export sales would be ''placed at risk'' if the U.S. did not ratify the treaty.

Unable to substantiate such claims, the CMA cut its estimate by more than half in February, 1997, to $280 million in potential lost sales.

On March 10, 1997, under further scrutiny, CMA dropped its estimate to $227 million in potential lost exports.

However, $142 million of CMA's estimate comes from the sale of Amiton, a pesticide which Western countries do not use (for environmental reasons) but which is sold to many African countries (many of which have not ratified the CWC).

The truth of the matter is that less than one-quarter of one percent of CMA's annual exports could be subject to trade restrictions if the U.S. does not ratify the CWC.

CMA is now claiming that European countries will impose broader ''non-tariff'' barriers on U.S. chemicals, despite the fact that 30 percent of all CMA members are owned by Europeans or other countries (such as Akzo Nobel Chemicals, which is Dutch).

CMA companies must not be all that concerned since CMA admitted in March that no CMA member company had filed a report with the Securities and Exchange Commission to notify stockholder regarding the impact of U.S. nonratification.

JUST WHAT TYPES OF CHEMICALS ARE SUBJECT TO TRADE RESTRICTIONS?

The CWC has three schedules of chemicals. Schedule 1 compounds are those which constitute chemical weapons or only have chemical weapons applications. They are not traded by U.S. companies anyway.

Schedule 2 chemicals are also usable in or as weapons, and they are ''not produced in large commercial quantities for purposes not prohibited under [the CWC].'' (Annex A, paragraph 2 of the CWC) Thus, these chemicals also are not traded, or are traded in insignificant quantities, by U.S. companies.

Schedule 1 and 2 chemicals are controlled under U.S. export regulations and would not be traded freely by U.S. companies regardless of membership of the U.S. in the CWC.

Schedule 3 chemicals are common commercial chemicals which may be used in chemical weapons, but which have many other uses. These chemicals, together with chemicals not on any of the three schedules, comprise the vast majority—virtually all—of U.S. chemical trade.

There are no restrictions on trade of Schedule 3 chemicals implied or stated in the CWC. U.S. nonmembership in the treaty will not affect trade in chemicals on Schedule 3 or which do not appear on any schedule.

The CWC states that ''Schedule 2 chemicals shall only be transferred to or received from States Parties.'' Therefore, if the U.S. is not a party, it cannot export to or receive from CWC member states any Schedule 2 chemicals. This does not matter to U.S. trade, however, because the U.S. manufactures all of the Schedule 2 chemicals it needs and does not export them in significant quantities.

There is no basis in the claim that nonmembership in the CWC will harm U.S. imports or exports, or harm U.S. industry in any significant manner. In fact, the opportunity for smaller chemical companies to break into the domestic market and compete in the production of the limited amount of Schedule 2 chemicals that cannot be imported would prove a net plus for the economy.

Mr. HELMS. Now, I am taking this advantage as the chairman of the committee. I spoke for 26 minutes this morning. The distinguished ranking member spoke for an hour. Just for the record, how long did the distinguished Senator from Indiana speak? I ask that of the Chair.

The PRESIDING OFFICER (Mr. LUGAR). The Senator from Indiana spoke for 41 minutes.

Mr. HELMS. I see. So the Senator from North Carolina feels that maybe they have had ample opportunity thus far into the debate.

Now, I ask that the distinguished Senator from Minnesota be recognized for 7 minutes, after which time we will stand in recess for the policy luncheon.

The PRESIDING OFFICER. Without objection, the Senator from Minnesota is recognized.

Mr. GRAMS. Mr. President, I rise to express my support for the Chemical Weapons Convention [CWC] with the full complement of 33 conditions on U.S. participation, which are now being considered by the Senate.

As a member of the Foreign Relations Committee, I have been reviewing and studying this treaty for over a year now and have had some serious reservations about the CWC throughout that process.

Therefore, I believe the conditions in Senate Executive Resolution 75 are essential to ensuring that the CWC has real benefits for American national security and will be truly verifiable and effective. Before we commit the American taxpayers to paying more than $100 million annually for U.S. participation in the treaty, we owe them nothing less.

Let me outline the conditions I believe are the most important.

First, I am pleased the Clinton administration has finally reversed its long-standing position that the CWC would prevent U.S. soldiers from using tear gas to rescue downed pilots or to avoid deadly force when enemy troops are using civilians as human shields.

Second, we must be sure that Russia will both comply with the existing chemical weapons destruction agreements it has already signed, and that it will ratify the CWC. Russia has the largest chemical weapons stockpile in the world and its compliance with earlier agreements will help the United States be more confident of its ability to monitor Russian compliance with the CWC.

This is especially important given reports that Russia has already developed new chemical weapons programs specifically designed to evade the treaty. More than 15 months after the United States ratified the START II Treaty, Russia has refused to follow suit. What makes us think that if we join the CWC before Russia does, it will then follow our example?

Third, the CWC will not protect American soldiers from chemical attack unless it has a serious and immediate impact on those countries that have hostile intentions toward the United States. This means that countries which are suspected of having chemical weapons programs and are sponsors of terrorism—such as Libya, Syria, Iraq, and North Korea—must participate in the CWC. Just this morning, a newspaper article reported that a prominent North Korean defector has warned that his former country is fully prepared to launch a chemical weapons attack on its neighbors. North Korea has not yet signed the CWC.

Fourth, we need to provide as much protection as possible for U.S. Government facilities and businesses when faced with international inspections. While the CWC does allow the United States to refuse specific inspectors, it should be a matter of policy that we will not accept inspectors from terrorist states like Iran. We are certainly justified in suspecting that these inspectors would be intent on gaining access to classified or confidential business information.

Fifth, I understand the administration has offered assurances that the United States will not seek to transfer chemical technology or information about chemical defenses to countries that might put it to harmful use. But because of the vagueness of the treaty language, we need to go further to prevent the proliferation of chemical weapons. We need to close off the possibility that other countries could use language in the treaty as cover for their desires to transfer chemical technology to countries like Iran. As we have seen in Iraq and North Korea, nuclear technology acquired supposedly for peaceful purposes can advance weapon capabilities.

Sixth and finally, we need to be sure that the CWC is effectively verifiable, meaning that the United States has a high degree of confidence in its ability to detect significant violations. I strongly supported the START II Treaty because it met this traditional standard. If we don't think we can detect cheating under the CWC, it seriously calls into question the value of the treaty.

Recently, there have been reports that China is selling chemical weapons components to Iran. Both countries have signed the CWC and, therefore, are supposedly committed to banning such activity.

In conclusion, Mr. President, there are conditions in the current resolution of ratification for the CWC that address every single one of the concerns I have mentioned.

I sincerely intend to support and vote for the Chemical Weapons Convention as long as the resolution of ratification is fortified with such strong conditions. They will help ensure that this treaty will have a real impact on the proliferation of chemical weapons and provide proven protection for U.S. forces.

However, I understand that some of my colleagues may try to strip out these important conditions on the CWC. This would be very unfortunate and would cause me to reconsider my current support for the treaty.

I urge my colleagues to vote against any killer amendments that would strike these conditions and, therefore, deprive the United States of assurances that the Chemical Weapons Convention is effective, enforceable and verifiable. The American taxpayers, who will be funding U.S. participation in the CWC, deserve a treaty that unquestionably and unambiguously advances our national security.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will be in recess until 2:15 p.m.

Thereupon, the Senate, at 12:39 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GREGG).

EXECUTIVE SESSION

CHEMICAL WEAPONS CONVENTION

The Senate continued with the consideration of the convention.

The PRESIDING OFFICER. The Senate will now proceed, under a previous order, to a voice vote on Senate Resolution 75.

The resolution (S. Res. 75) was rejected.

The PRESIDING OFFICER. Under a previous order, the motion to reconsider is agreed to.

The resolution of ratification (S. Res. 75) is back before the Senate.

Under the previous order, the question now occurs on the first 28 conditions en bloc.

The first 28 conditions en bloc were agreed to, as follows:

SEC. 2. CONDITIONS.

The Senate's advice and consent to the ratification of the Chemical Weapons Convention is subject to the following conditions, which shall be binding upon the President:

(1) EFFECT OF ARTICLE XXII.—Upon the deposit of the United States instrument of ratification, the President shall certify to the Congress that the United States has informed all other States Parties to the Convention that the Senate reserves the right, pursuant to the Constitution of the United States, to give its advice and consent to ratification of the Convention subject to reservations, notwithstanding Article XXII of the Convention.

(2) FINANCIAL CONTRIBUTIONS.—Notwithstanding any provision of the Convention, no funds may be drawn from the Treasury of the United States for payments or assistance (including the transfer of in-kind items) under paragraph 16 of Article IV, paragraph 19 of Article V, paragraph 7 of Article VIII, paragraph 23 of Article IX, Article X, or any other provision of the Convention, without statutory authorization and appropriation.

(3) ESTABLISHMENT OF AN INTERNAL OVERSIGHT OFFICE.—

(A) CERTIFICATION.—Not later than 240 days after the deposit of the United States instrument of ratification, the President shall certify to the Congress that the current internal audit office of the Preparatory Commission has been expanded into an independent